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TITLE 3—THE PRESIDENT

PROCLAMATION 2818

MODIFICATION OF CLOSED AREA UNDER THE MIGRATORY BIRD TREATY ACT; OREGON

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS the Acting Secretary of the Interior has submitted to me for approval the following regulation adopted by him under authority of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, 16 U. S. C. 704), and Reorganization Plan No. II (53 Stat. 1431):

AMENDMENT OF REGULATION DESIGNATING AS CLOSED AREA CERTAIN LANDS AND WATERS WITHIN, ADJACENT TO, OR IN THE VICINITY OF THE MALHEUR NATIONAL WILDLIFE REFUGE, OREGON

By virtue of and pursuant to the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), and Reorganization Plan II (53 Stat. 1431), and in accordance with the provisions of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238), I, William E. Warne, Acting Secretary of the Interior, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, do hereby designate as a closed area, effective October 29, 1948, in or on which pursuing, hunting, taking, capture, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted, all areas of land and water in Harney County, Oregon, within the record meander lines of Malheur and Harney Lakes and the streams and waters connecting said lakes, as shown on the official plats of the following-listed townships:

WILLAMETTE MERIDIAN

	Plat approved
T. 26 S., R. 29 E.	Mar. 24, 1880
T. 27 S., R. 29 E.	Dec. 26, 1892
T. 27 S., R. 29½ E.	Nov. 2, 1904
T. 28 S., R. 29¾ E.	Nov. 2, 1904
T. 26 S., R. 30 E. (North of Malheur Lake)	May 19, 1913
T. 26 S., R. 30 E. (South of Malheur Lake)	Dec. 21, 1896
T. 27 S., R. 30 E.	Dec. 21, 1896
T. 26 S., R. 31 E. (North of Malheur Lake)	Dec. 21, 1896
T. 26 S., R. 31 E. (South of Malheur Lake)	Dec. 21, 1896
T. 25 S., R. 32 E.	Dec. 21, 1896
T. 26 S., R. 32 E. (North of Malheur Lake)	Dec. 21, 1896
T. 26 S., R. 32 E. (South of Malheur Lake)	Dec. 21, 1896
T. 27 S., R. 32 E.	Dec. 21, 1896
T. 25 S., R. 32½ E.	Dec. 21, 1896
T. 25 S., R. 33 E.	Dec. 21, 1896
T. 26 S., R. 33 E.	Dec. 21, 1896

But excepting therefrom that area of land and water within the record meander line of Malheur Lake, bounded and described as follows:

Beginning at corner No. 1, in the record meander line (known as the Neal survey line) of T. 26 S., R. 32 E. (north of Malheur Lake), in the south boundary of fractional sec. 3, at the corner common to lots ten (10) and eleven (11) of said fractional section;

Thence within Malheur Lake, south approximately 107.60 chs., to a fence;

Thence with six courses along a fence, S. 86°30' W., 30.35 chs., N. 59°15' W., 44.60 chs., S. 47°25' W., 65.50 chs., S. 28°20' E., 34.00 chs., S. 56°25' W., 35.00 chs., S. 64°40' W., approximately 5.00 chs.;

Thence: S. 79°05' W., leaving fence, approximately 102.00 chs., to a fence;

Thence with three courses along a fence, S. 16°00' E., approximately 28.00 chs., N. 88°20' W., 1.90 chs., S. 0°50' E., 49.00 chs., to the record meander line (known as the Neal survey line) of T. 26 S., R. 31 E. (south of Malheur Lake), in the north boundary of fractional sec. 30, at the corner common to lots fourteen (14) and fifteen (15) of said fractional section 30;

Thence: Westerly and southwesterly with the aforesaid record meander line (known as the Neal survey line), in part the north boundary of T. 26 S., R. 31 E. (south of Malheur Lake), fractional sec. 30, and in part the north boundary of T. 26 S., R. 30 E. (south of Malheur Lake), fractional secs. 25 and 26, in part along the south side of Malheur Lake and in part along the south-

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FEDERAL REGISTER

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east side of the Narrows connecting Malheur and Mud Lakes, approximately 164.00 chs., to the corner in said record meander line of T. 26 S., R. 30 E. (south of Malheur Lake), in the northwest boundary of fractional sec. 26, common to lots five (5) and seven (7); Thence: Approximately S 78° 15' W. crossing said Narrows 8.50 chs., to the record meander line (known as the Neal survey line) of T. 26 S., R. 31 E. (north of Malheur Lake), the meander corner common to fractional secs. 26 and 35, on the northwest side of the said Narrows;

Thence: Northerly and northeasterly with said record meander line, in part along the northwest side of the said Narrows and in part along the west and north sides of Malheur Lake, in part along south and east boundaries of T. 26 S., R. 31 E. (north of Malheur Lake), fractional secs. 26, 23, 24, 14 and 13, and in part along the south and east boundaries of T. 26 S., R. 32 E. (north of Malheur Lake), fractional secs. 18, 17, 8, 9, 4, 3 and 10, approximately 1,080.00 chs., to the place of BEGINNING.

Upon the effective date hereof, this regulation shall supersede the regulation dated September 17, 1941, designating as a closed area certain lands and waters in Harney County, Oregon, approved by the President of the United States of America by Proclamation No. 2516 of October 1, 1941.

Because this amendment partially removes the restrictions set forth in said regulation proclaimed October 1, 1941 and imposes no new obligation upon the general public with respect to the area described herein, it is found that it is unnecessary to issue said amended regulation subject to the general notice provision and the effective date limitation of sections 4 (a) and 4 (c), respectively, of the Administrative Procedure Act.

In witness whereof, I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed this 5th day of October 1948.

[SEAL] WILLIAM E. WARNE,
Acting Secretary of the Interior.

AND WHEREAS upon consideration it appears that the foregoing regulation will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act of July 3, 1913:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing amendment of regulation.

This proclamation supersedes Proclamation No. 2516 of October 1, 1941, approving and proclaiming the regulation adopted by the Secretary of the Interior on September 17, 1941, designating as closed area certain lands and waters in Harney County, Oregon.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 20th day of October in the year [SEAL] of our Lord nineteen hundred and forty-eight, and of the Independence of the United States of America the one hundred and seventy-third.

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 48-9391; Filed, Oct. 21, 1948; 11:40 a. m.]

PROCLAMATION 2819

COPYRIGHT—PHILIPPINES

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA
A PROCLAMATION

WHEREAS Title 17 of the United States Code, entitled "Copyrights", has been codified and enacted into positive law by the act of Congress approved July 30, 1947, 61 Stat. 652;

WHEREAS section 9 of the said Title 17 provides in part that the copyright

secured by such title shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation only:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection, substantially equal to the protection secured to such foreign author under this title or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto;

WHEREAS section 1 of the said Title 17 provides in part as follows:

Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right:

(e) To perform the copyrighted work publicly for profit if it be a musical composition; * * * Provided, That the provisions of this title, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after July 1, 1909, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights;

WHEREAS section 9 of the said title further provides that "the existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this title may require";

WHEREAS the Philippine Copyright Law, No. 3134, approved March 6, 1924, provides by section 10 (b) that the provisions of the said law shall extend to the work of a proprietor who is not a citizen of the Republic of the Philippines only:

When the foreign state or nation of which such proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States or of the Philippine Islands the benefit of copyright protection substantially equal to the protection secured to such foreign proprietor under this act;

WHEREAS in Republic Act No. 76, approved October 21, 1946, it is provided by section 1 that:

Existing laws or the provisions of existing laws granting privileges, rights or exemptions to citizens of the United States of America or to corporations or associations organized under the laws of any of the states of the United States of America, which are not enjoyed by citizens or nationals of any other foreign state or by corporations or associations organized under the laws of such state, are hereby repealed unless they affect rights already vested under the provisions of the Constitution or unless extended by any treaty, agreement or convention between the Republic of the Philippines and the United States of America.

AND WHEREAS satisfactory official assurances have been received that on and after October 21, 1948, pursuant to the aforementioned Law No. 3134, as amended by the aforesaid Republic Act No. 76, citizens of the United States will be entitled to obtain copyright protection for their works in the Republic of the Philippines which is substantially equal to the protection afforded by the copyright laws of the United States and which is afforded on substantially the same basis as to the citizens of the Republic of the Philippines, including rights similar to those provided by section 1 (e) of the said Title 17 of the United States Code:

NOW, THEREFORE, I, Harry S. Truman, President of the United States of America, do declare and proclaim:

That on and after October 21, 1948, the conditions specified in sections 9 (b) and 1 (e) of the aforementioned Title 17

of the United States Code will exist and will be fulfilled in respect of the citizens of the Republic of the Philippines, and that on and after October 21, 1948, citizens of the Republic of the Philippines shall be entitled to all the benefits of the said Title 17 except those conferred by the provisions embodied in the second paragraph of section 9 (b) thereof regarding the extension of time for fulfilling copyright conditions and formalities.

Provided, that the enjoyment by any work of the rights and benefits conferred by the said Title 17 shall be conditioned upon compliance with the requirements and formalities prescribed with respect to such works by the copyright laws of the United States:

And provided further, that the provisions of section 1 (e) of the said Title 17, so far as they secure copyright controlling parts of instruments serving to reproduce mechanically the musical

work, shall apply only to compositions published and copyrighted after July 1, 1909, and reproduced for use on any contrivance by means of which the work may be mechanically performed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 21st day of October in the year of our Lord nineteen hundred and [SEAL] forty-eight, and of the Independence of the United States of America the one hundred and seventy-third.

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 48-9390; Filed, Oct. 21, 1948; 11:40 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 01—ORGANIZATION AND OFFICIAL RECORDS OF THE COMMISSION

PART 02—FUNCTIONS OF THE COMMISSION CODIFICATION DISCONTINUED

In order to conform Chapter I of Title 5 to the scope and style of the Code of Federal Regulations, 1949 Edition, authorized and directed by Executive Order 9930 of February 4, 1946 (13 F. R. 519), the codification of Parts 01 and 02 is discontinued. Future amendments to the statements of organization and functions contained in these parts will be published in the Notices section of the FEDERAL REGISTER.

(Sec. 2, 22 Stat. 403, 50 Stat. 533; 5 U. S. C. 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 48-9309; Filed, Oct. 21, 1948; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter A—Administration

PART 300—GENERAL

Subchapter F—Project Liquidation

PART 353—SALES OF REAL PROPERTY

Subchapter G—Farm Ownership

PART 364—REGULATIONS

PART 366—FARMS

PART 367—LOAN PROCESSING

FARM OWNERSHIP INVESTMENT LIMITS

The term "investment limit" is hereby adopted in lieu of the term "loan limit"

in connection with the Farm Ownership Program under title I and the related provisions of title IV of the Bankhead-Jones Farm Tenant Act, as amended. Accordingly, the word "investment" is substituted for the word "loan" where the word "loan" immediately precedes the word "limit" or "limits" in the regulations cited below, contained in Title 6 of the Code of Federal Regulations, as amended.

1. Section 300.17 (a) (6) (iii), (6 CFR, 1947 Supp., 300.17).

2. Note to Part 353, (6 CFR, 1947 Supp.).

3. Section 364.2 (a), (c), and (f) (1) (ii), (6 CFR, 1947 Supp., 364.2).

4. Section 364.11, (6 CFR, 1946 Supp., 364.11, 6 CFR, 1947 Supp., 364.11, and 13 F. R. 611, 2155, 3293, and 4249).

5. Section 366.2 (a) (3), (6 CFR, 1947 Supp., 366.2).

6. Section 366.33 (d) (1) (iii) and (d) (1) (v) (c), (13 F. R. 1106).

7. Section 367.1 (e) (2), (6 CFR, 1947 Supp., 367.1).

8. Section 367.2 (e) (3) (i), (6 CFR, 1947 Supp., 367.2).

9. Section 367.3 (f) (3) (i) and (ii), (6 CFR, 1947 Supp., 367.3).

(60 Stat. 1062; Pub. Law 249, 80th Cong., 61 Stat. 493; Pub. Law 720, 80th Cong., 62 Stat. 534)

Issued this 19th day of October 1948.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 48-9331; Filed, Oct. 21, 1948; 8:52 a. m.]

PART 364—REGULATIONS

FARM OWNERSHIP LOAN LIMITATIONS

Section 364.2, *Loan limitations*, in Title 6, Code of Federal Regulations (6 CFR, 1947 Supp., 364.2), is amended to read as follows:

§ 364.2 *Loan limitations*—(a) *General*. The Secretary of Agriculture has

determined average values and investment limits for most of the counties and parishes in the United States, its territories and possessions, in accordance with the Bankhead-Jones Farm Tenant Act, as amended. Direct or insured Farm Ownership loans will not be made in any county, parish, or locality until such determinations have been made for the county, parish, or locality (see § 364.11).

(b) *Average value*. The "average value" for a county, parish, or locality means the average value, as determined by the Secretary of Agriculture for the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, of efficient family-type farm-management units situated in the county, parish, or locality.

(c) *Investment limit*. The "investment limit" for a county, parish, or locality is the amount to which the total investment of a Farm Ownership applicant in a farm is limited, unless the Administrator authorizes a greater total investment as provided in paragraph (h) of this section. The total investment of a Farm Ownership applicant in a farm will be computed in accordance with paragraph (e) of this section.

(d) *Fair and reasonable value of farm*. The fair and reasonable value of a farm is determined by the County Committee in accordance with § 366.3 of this chapter, and is the amount certified by the Committee (on Form FHA-491, "County Committee Certification," or on Form FHA-499, "Recertification by County Committee") to be the fair and reasonable value of the farm, based upon its normal earning capacity, after contemplated improvements are made.

(e) *Total investment in farm*. The computation of the total investment of a Farm Ownership applicant in a farm depends upon the type of Farm Ownership financial assistance for which application is made. In computing total investment, the cost of property insurance, or the initial mortgage insurance charge is not included.

(1) For an initial direct or insured Farm Ownership loan (Tenant Purchase, Farm Enlargement, and Farm Development), the applicant's total investment in the farm will consist of the sum of the following items:

(i) The purchase price of all land or interests in land to be acquired by the applicant.

(ii) The amount necessary for all planned repairs and improvements, both immediate and deferred.

(iii) The amount of any necessary fees and expenses incident to making and closing the loan which are required to be paid by the applicant, whether included in the Farm Ownership loan as a service fee or paid by the applicant from personal funds.

(iv) In the case of a Farm Enlargement or a Farm Development loan:

(a) The value, as determined by the County Committee (on Form FHA-493, "Value of Applicant's Unit"), of the applicant's equity in the tract of land owned by the applicant which is to be enlarged or improved.

(b) The amount necessary to refinance indebtedness against the tract of land owned by the applicant which is to be enlarged or improved, or to pay the balance due on a purchase contract covering such land.

(v) If a Tenant Purchase loan involves a tract of land in which the applicant owns an undivided fractional interest, by reason of inheritance or otherwise, and the applicant is to purchase the interests of the other heirs or joint owners (see § 365.1 of this chapter):

(a) The value of the applicant's interest in the tract.

(b) The amount necessary to satisfy the applicant's share of liens or encumbrances against the tract.

(2) For a subsequent direct Farm Ownership loan (see § 367.3 of this chapter) not in connection with the voluntary transfer of a farm or the sale of land by the Farmers Home Administration, the applicant's total investment in the farm will consist of the sum of the following items:

(i) The unpaid amount of the applicant's Farm Ownership indebtedness.

(ii) The amount of the requested subsequent loan, except such part, if any, of the requested subsequent loan as will be used for refinancing outstanding Farm Ownership indebtedness.

(iii) The amount of any necessary fees and expenses incident to making and closing the subsequent loan which are required to be paid by the applicant and which are not included in the subsequent loan as a service fee.

(iv) Any other amounts which will be paid by the applicant from personal funds in connection with accomplishing the purposes of the subsequent loan.

(v) The value, as determined by the County Committee (on Form FHA-493, "Value of Applicant's Unit"), of the applicant's equity in land owned by him.

(3) For a sale by the Farmers Home Administration of a family-type farm on terms and in a manner consistent with title I of the Bankhead-Jones Farm Tenant Act, as amended (see § 387.35 of this chapter), the applicant's total investment in the farm will be computed

in a manner consistent with the computation of total investment for an initial Tenant Purchase loan.

(4) For a voluntary transfer of a farm which secures a direct Farm Ownership loan (see § 387.31 of this chapter), if a subsequent loan is requested in connection with the transfer, the applicant's total investment in the farm will be computed as in the case of an initial Tenant Purchase loan. If no subsequent loan is requested, the investment limit and the average value do not apply in connection with the transfer of a family-type farm.

(5) Each case involving a type of Farm Ownership financial assistance not described in this paragraph will be referred to the Administrator for specific instructions.

(f) *Application of average values and investment limits.* No direct (initial or subsequent) or insured Farm Ownership loan for the acquisition, enlargement, or development of any farm, and no credit sale by the Farmers Home Administration of a farm on title I terms, will be approved:

(1) If the fair and reasonable value of the farm, as certified by the County Committee, exceeds the applicable average value, or

(2) If the applicant's total investment in the farm will exceed either:

(i) The investment limit (in the absence of authority from the Administrator as provided in paragraph (h) of this section) or

(ii) The fair and reasonable value of the farm, as certified by the County Committee.

(g) *Limit on amount of insured loan.* In addition to the limitations contained in paragraph (f) of this section, no insured Farm Ownership loan for the acquisition, enlargement, or development of any farm will be approved in an amount which exceeds either:

(1) Ninety percent (90%) of the fair and reasonable value of the farm, as certified by the County Committee, or

(2) Ninety percent (90%) of the applicant's total investment in the farm, if such investment is less than the certified value.

(h) *Action by Administrator regarding total investment in farm greater than \$12,000 if county average value exceeds \$12,000.* In a county where the average value exceeds \$12,000, each case involving a proposed total investment in a farm greater than \$12,000 may be submitted to the Administrator by the State Director for consideration and determination in conformity with this paragraph. Each request for action under this paragraph shall be accompanied by a detailed statement of the circumstances necessitating the request, together with the original loan docket and the recommendations of the County Supervisor, the County Committee, and the State Field Representative. Pending determination by the Administrator, no commitment, or statement which might be interpreted as a commitment, shall be made as to whether a total investment in the farm greater than \$12,000 will be approved. The Administrator may approve a total investment in the farm

greater than \$12,000: *Provided*, That all of the following conditions are satisfied:

(1) The applicant's total investment in the farm will not exceed the fair and reasonable value of the farm, as certified by the County Committee.

(2) The fair and reasonable value of the farm, as certified by the County Committee, does not exceed the average value, as determined by the Secretary.

(3) The Administrator determines that it is not possible for the applicant to acquire, enlarge, or improve the farm and make it an efficient family-type farm-management unit with a total investment of \$12,000 or less.

(4) The Administrator determines that the proposed loan will be an unusually sound investment and is safely within the applicant's ability to repay as evidenced by one or more of the following factors:

(i) The proposed total investment is substantially less than the normal earning capacity value of the farm.

(ii) The applicant has assets or debt paying ability greater than the minimum required for a Farm Ownership loan.

(iii) The applicant has clearly established managerial ability or farming experience superior to the minimum required for a Farm Ownership loan.

(iv) The proposed farm and home plan indicates debt paying ability substantially in excess of that shown in the earning capacity report.

(i) *Farm situated in more than one county.* For the purposes of this section, if a farm lies in more than one county, parish, or locality, it will be deemed to be located in the county, parish, or locality in which the residence building of the farm is located or is to be constructed. (60 Stat. 1062; Pub. Law 249, 80th Cong., 61 Stat. 493; Pub. Law 720, 80th Cong., 62 Stat. 534; Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520, 7 CFR, 1946 Supp., p. 524; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137, 7 CFR, 1947 Supp., p. 879)

Dated: October 8, 1948.

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

Approved: October 19, 1948.

A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 48-9332; Filed, Oct. 21, 1948; 8:52 a. m.]

PART 366—FARMS

PERFORMING FARM DEVELOPMENT

Section 366.33, *Performing farm development*, in Chapter III of Title 6, Code of Federal Regulations (13 F. R. 1105), is amended to read as follows:

§ 366.33 *Performing farm development*—(a) *General*—(1) *Methods of performance.* All farm development planned on Form FHA-643, "Farm Development Plan," will be performed (i) by or under the direction of the borrower, (ii) by contract, or (iii) by a combination of the two methods.

(2) *Time limits.* Every effort will be made to complete all immediate development performed by or under the direction of the borrower or by contract within 15 months after the borrower occupies his farm as owner.

(3) *Time of starting construction and land development.* All farm development will be started as soon as practicable after the loan is closed. Before making commitments or starting any item of farm development, the County Supervisor and the borrower should be reasonably sure that the item can be completed according to plans and specifications and within available funds.

(i) If it appears that any change is necessary in the plans and specifications for any item, the procedure for effecting changes on Form FHA-643, as provided in paragraph (d) of this section, will be followed.

(ii) When the loan is approved, the State Office will notify the Engineer so that he may prepare any necessary plans, specifications, and instructions for the farm development work, as planned on Form FHA-643, in order that his responsibilities with respect to the initiation of farm development work may be discharged without delay as soon as the loan is closed.

(4) *Extension of time for completing construction and land development.* Upon expiration of time limits, recorded in Part II of Form FHA-643, for completion of planned items of immediate farm development, the County Supervisor will take the following action with respect to any planned items which have not been completed.

(i) For farm development items performed by or under the direction of the borrower, the extension of time will be accomplished by preparing Form FHA-924, "Request for Development Changes," in the following manner. The County Supervisor will discuss with the borrower the reasons why the work was not completed within the time limit and will reach an understanding as to when the work will be completed. The agreed upon extension of time for completion of each item will be recorded under "Description of Changes." The reasons why the construction was not completed as planned will be listed under "Justification." Form FHA-924 will be distributed in accordance with paragraph (d) (4) (i) (a) of this section.

(ii) For farm development items being performed by contract, extensions of time will be granted only in accordance with the terms of Form FHA-296, "Construction Contract" (see paragraph 6 of Form FHA-296). Extensions of time for contract work will be processed on Form FHA-925, "Contract Change Order," in accordance with the provisions of paragraph (d) (2) (i) of this section, and will become a supplement to the contract.

(iii) For farm development items set up in "Part II-Narrative" of Form FHA-643 for construction by contract method, but for which no contract has been executed at the expiration of the period of 15 months after the borrower occupies his farm as owner, the extension of time

will be accomplished in accordance with paragraph (a) (4) (i) of this section.

(5) *Real property insurance.* The County Supervisor will be responsible for ascertaining that all structures involving construction, regardless of the method of performance, are insured adequately at the proper time.

(6) *Use of supervised bank account.* The County Supervisor will explain clearly to the borrower the use of the supervised bank account in disbursing funds for farm development.

(7) *Authorized substitute for Engineer.* The State Director, with the advice of the Engineer, if available, is authorized to delegate to any qualified and properly trained Farmers Home Administration employee the duties and functions of the Engineer with respect to performing farm development, which other staff members can do or can be trained to do effectively. Whenever the term "Engineer" appears in this section, it shall include his authorized substitute.

(b) *Implementing farm development performed by or under the direction of the borrower.* When Form FHA-643 indicates that farm development is to be performed by or under the direction of the borrower, he will (1) purchase the material and do the work, or (2) purchase the material and hire labor to do the work under his direction.

(c) *Implementing farm development performed by contract.* Ordinarily, all of the farm development of a single farm to be accomplished by the contract method will be included in a single contract to one contractor. However, in those instances where it is plainly in the best interest of the borrower and the Government, the farm development of a single farm may be split into two or more separate contracts. In other words, separate contracts with respect to one or more planned items of farm development of a single farm may be awarded for materials, labor, or both materials and labor. When separate contracts are used in connection with the development of a single farm, each contract must be awarded to a different contractor. However, this will not prohibit the awarding of another contract to the same contractor for work on the same farm in connection with deferred or subsequently planned development. When Form FHA-643 indicates that farm development is to be performed by contract, the following steps will be taken:

(1) *Preparation of bid docket.* The State Office will notify the Engineer when the loan is closed. Upon receipt of such notice, the Engineer will transmit to the County Supervisor an appropriate number of bid dockets to be used by bidders. Each docket will contain Form FHA-927, "Invitation for Bid," Form FHA-928, "Bid," Form FHA-296, "Construction Contract," and appropriate technical specifications and drawings. Appropriate entries will be made on Forms FHA-927, FHA-928, and FHA-296.

(i) *Selection of contractor.* Caution must be exercised in the selection of the contractor and no contractor will be awarded more contracts than he reasonably can be expected to perform.

(ii) *Surety bonds.* (a) In cases where it has been determined by the Engineer that the provision in Form FHA-296 requiring the contractor to furnish surety bonds will prevent otherwise qualified local contractors from bidding on the work, the Engineer may waive this provision. Modification of Form FHA-296 to provide for the waiving of surety bond requirements shall be made by crossing out item V "Surety Bond" of the "General Conditions" and by adding the following notation under item 7 of the contract: "Item V 'Surety Bond' of the 'General Conditions' is deleted from this contract."

(b) When a contractor bidding on a contract is required to furnish Form FHA-200, "Performance and Payment Bond," the bond will be obtained from a surety company legally doing business in the state.

(2) *Securing bids.* Each prospective bidder will be supplied with a bid docket, together with appropriate instructions for bidding. The County Supervisor, with the assistance of the Engineer, will secure on Form FHA-928 bids from as many qualified contractors as practicable.

(3) *Bid opening.* Bids will be opened in public at the time and place designated in Form FHA-927. The borrower and the County Supervisor must be present and, if practicable, the Engineer should be present when the bids are opened and tabulated.

(4) *Awarding the contract.* (i) The award will always be made by the borrower to the lowest responsible bidder after approval by the Engineer. *Provided, That:*

(a) All requirements of the loan closing instructions have been met.

(b) The cost of all items in any category, namely; dwelling, other construction, and land development, does not exceed the estimate made for the same category on Form FHA-643, Part III, by more than ten percent. The ten percent limitation applies separately to immediate development and to deferred development in each category. If the ten percent is exceeded, authority shall be required from the State Field Representative before making the award.

(c) The total cost of all immediate development items to be performed under the contract does not exceed the total estimated cost of such items as shown on Part I of Form FHA-643.

(ii) If the Engineer is present at the opening of the bids, the award may be made immediately. If the Engineer is not present at the opening of the bids, the County Supervisor will forward all bids, together with his recommendations and the recommendations of the borrower, to the Engineer for review. The Engineer will return the bids, together with his written approval, disapproval, or recommendations, to the County Supervisor. When, in special cases, the Engineer deems it necessary, he also will prepare Form FHA-296 in an original and four copies. If he deems it advisable, he may request the advice of the representative of the Office of the Solicitor relative to the provisions which must be inserted in the form before forwarding them to the County Supervisor.

(5) *Preparation of Form FHA-296 for signature.* Unless prepared previously by the Engineer, the County Supervisor will prepare an original and four copies of Form FHA-296 after the award has been made. In instances in which the Engineer has authorized the waiver of the requirement with respect to surety bonds and the successful bidder will not be required to furnish such bonds, the County Supervisor will modify Form FHA-296 in accordance with subparagraph (1) (ii) of this paragraph. The County Supervisor then will secure the required signatures of the contractor and the borrower on the original and two copies.

(6) *Distribution of Form FHA-296.* Form FHA-296 will be distributed as follows: The original will be forwarded promptly to the State Office; one signed copy given to the borrower; one signed copy delivered to the contractor; one copy placed in the borrower's field folder; and one copy will be sent to the Engineer.

(7) *Notice to proceed.* After the signatures have been secured on Form FHA-296, the County Supervisor will advise the borrower to issue notice to the contractor to proceed.

(8) *Subcontracts.* (i) Contractors will not be permitted to enter into agreements with subcontractors for any farm development work until written consent is received by the County Supervisor from the Engineer. Before approval of any subcontract the Engineer will determine that the subcontract contains the following provisions: (a) The subcontractors will comply with the terms of Form FHA-296 entered into between the contractor and the owner, and (b) the contractor will have the same powers regarding the termination of the subcontract as the owner has with respect to Form FHA-296.

(ii) Two copies of the executed subcontract will be furnished the County Supervisor by the contractor. One copy will be submitted to the State Office where it will be placed in the borrower's State Office case file and one copy will be placed in the borrower's County Office case file.

(9) *Pay rolls.* In compliance with the requirements of Form FHA-296 pertaining to the "Kickback Statute," the contractor and any subcontractor will submit each week to the County Supervisor one copy of their pay rolls for the previous week on Form FHA-173A, "Weekly Pay Roll." The statement of compliance with the "Kickback Statute," as stated on the back of Form FHA-173A, must be sworn to by the contractor or subcontractor as the case may be. Each copy of Form FHA-173A thus received will be placed in the borrower's County Office case file.

(d) *Changes in Form FHA-643.* If a subsequent loan is not required, changes in Form FHA-643 may be made at any time at the request of the borrower and with the consent of the State Field Representative or the County Supervisor as hereinafter provided by the use of Form FHA-924 or Form FHA-925. Form FHA-924 will be used when farm development is performed by or under the direc-

tion of the borrower. Form FHA-925 will be used when farm development is performed by contract. (If a subsequent loan is required, see § 367.3 of this chapter.)

(1) *Limitations.* The State Field Representative and the County Supervisor are authorized to approve changes in Form FHA-643, as specified in subparagraphs (2) and (3) of this paragraph: *Provided, That:*

(i) Such a change is for an authorized purpose.

(ii) Such a change has been discussed with and approved in writing by the County Committee in the case of any basic change which affects substantially the method of operation of the farm or the Government's security.

(iii) Such a change does not result in a total investment in the farm in excess of the County Investment Limit, or the fair and reasonable value of the farm as certified by the County Committee on Form FHA-491, "County Committee Certification," whichever is the lesser.

(iv) Sufficient funds have been deposited in the borrower's supervised bank account to cover the contemplated change when the change involves additional funds to be furnished by the borrower.

(v) When the change involves additional funds to be furnished by the borrower which will bring the total investment in the farm above the fair and reasonable value of the farm as determined previously by the County Committee, a revised Form FHA-491 will be required, prepared, and distributed in the regular manner. Such a change may be authorized provided the County Committee finds that:

(a) The earning capacity of the farm will support the increased investment.

(b) The fair and reasonable value does not exceed the "average value" for the county.

(c) The total investment does not exceed the County Investment Limit.

(vi) The recommendation of the Engineer has been secured when a change in construction done by or under the direction of the borrower involves technical engineering.

(vii) The recommendation of the Engineer has been secured when there is any change in construction done by contract.

(viii) The recommendation of the employee authorized to appraise farms has been secured when a change in land development is involved.

(2) *Changes authorized by State Field Representative.* Subject to the limitations set forth in subparagraph (1) of this paragraph, the State Field Representative is authorized to approve changes which involve:

(i) Extension of time to complete work done under contract.

(ii) Extension of time to complete work done by or under the direction of the borrower. Before granting such extensions of time a definite understanding must be reached that the work will be completed within the additional time allotted.

(iii) Changes in method of performing farm development.

(iv) Deletion from Form FHA-643 of planned farm development items found not to be necessary.

(v) Basic changes in the original farm and home plans.

(vi) Transfer of loan funds within or between development categories when the cost of the items in any category exceeds ten percent of the amount shown on Form FHA-643.

(vii) An increase in cost of planned farm development to be paid from the borrower's own funds.

(3) *Changes authorized by County Supervisor.* Subject to the limitations set forth in subparagraph (1) of this paragraph, the County Supervisor is authorized to approve minor changes in Form FHA-643 which do not require the approval of the State Field Representative. He also is authorized to approve changes which involve transfers of funds as follows:

(i) *Between farm development categories.* Part III of Form FHA-643 establishes three categories of farm development: (1) Dwelling, (2) other construction, and (3) land development. Funds may be transferred between these categories to the extent necessary to meet the difference between estimated costs on Form FHA-643 and actual costs: *Provided, That:*

(a) No planned item on Form FHA-643 is omitted and no basic changes are made in the farm and home plans upon which the loan was authorized.

(b) Such transfers do not result in increasing or decreasing the funds for immediate development in any category more than ten percent.

(ii) *From unexpended service fee.* Ordinarily any unexpended amount of the service fee which will not be needed shall be applied as a refund on a loan (see paragraph (a) (6) of § 364.1 of this chapter). However, any such unexpended amount may be transferred to any one of the three above categories of immediate development to meet the difference between estimated costs on Form FHA-643 and actual costs.

(4) *Preparation of Form FHA-924 and Form FHA-925—(i) Approval by State Field Representative.* (a) Form FHA-924 requiring the approval of the State Field Representative will be prepared in an original and three copies. The original and all copies will be signed as follows: The borrower will sign as requesting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; the County Supervisor will sign as recommending the change; and the State Field Representative will sign if he approves the change. Form FHA-924 will be distributed as follows: The original will be forwarded to the State Office where it will be placed in the borrower's State Office case file; one copy sent to the Engineer; one copy placed in the borrower's field folder; and one copy will be delivered to the borrower.

(b) Form FHA-925 requiring the approval of the State Field Representative

will be prepared in an original and four copies. The original and all copies will be signed as follows: The borrower will sign as requesting the change; the contractor will sign as accepting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; the County Supervisor will sign as recommending the change; and the State Field Representative will sign if he approves the change. Form FHA-925 will be distributed as follows: The original will be forwarded to the State Office where it will be placed in the borrower's State Office case file; one copy sent to the Engineer; one copy placed in the borrower's field folder; one copy delivered to the borrower; and one copy will be sent to the contractor.

(ii) *Approval by County Supervisor.*

(a) Form FHA-924 requiring the approval of the County Supervisor will be prepared in an original and two copies. The original and all copies will be signed as follows: The borrower will sign as requesting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; and the County Supervisor will sign if he approves the change. Form FHA-924 will be distributed as follows: The original will be placed in the borrower's field folder; one copy sent to the Engineer; and one copy will be delivered to the borrower.

(b) Form FHA-925 requiring the approval of the County Supervisor will be prepared in an original and four copies. The original and all copies will be signed as follows: The borrower will sign as requesting the change; the contractor will sign as accepting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; and the County Supervisor will sign if he approves the change. Form FHA-925 will be distributed as follows: The original will be forwarded to the State Office and placed in the borrower's State Office case file; one copy sent to the Engineer; one copy placed in the borrower's field folder; one copy delivered to the borrower; and one copy will be sent to the contractor.

(a) *Inspections.*—(1) *Work done by or under the direction of the borrower.*—(i) *Periodic inspections.* The County Supervisor will make periodic inspections of all farm development work in progress. After each inspection, the County Supervisor will record in the borrower's field folder the date the inspection was made, the percentage of work completed, and any other pertinent information. The inspection and acceptance of material as delivered to the site and the storage of material will be the responsibility of the borrower. The County Supervisor will advise the borrower of these responsibilities. When construction is involved, the Engineer also will make such additional inspections as the nature and character of the work may require.

(ii) *Final inspections.* The County Supervisor will make a final inspection of immediate development within sixty days after all such development has been completed, provided that no construction item has exceeded a cash cost of \$500. If any construction item exceeds a cash cost of \$500, the Engineer will make the final inspection. When all immediate development performed by or under the direction of the borrower has been completed and the Engineer's inspection is required, the County Supervisor will notify the Engineer in writing. At the earliest feasible date, but within sixty days after such notification, the Engineer will make a final inspection of all farm development items not covered by a previous inspection.

(2) *Work done by contract.*—(i) *Periodic inspections.* As the work proceeds, the Engineer will make necessary periodic inspections to determine whether construction and/or land development work conforms with plans, specifications, and change orders, and whether the contractor is complying with other provisions of Form FHA-296.

(a) When adverse conditions involving plans, specifications, change orders, or labor provisions are found at the time of inspection by the Engineer, he will request the contractor in writing to correct such adverse conditions in conformance with the contract. A copy of this request will be sent to the County Supervisor who will endeavor to have the contractor comply with the Engineer's request. If the County Supervisor cannot secure compliance, he will report the facts to the State Director who will determine the action to be taken.

(b) The County Supervisor will make such periodic inspections as he and the Engineer agree upon. After each inspection, the County Supervisor will report his findings to the Engineer in writing and place one copy of the report in the borrower's County Office case file.

(ii) *Final inspections.* (a) The Engineer will make a final inspection as soon as possible after the County Supervisor advises him that the contract work has been completed.

(b) When a separate contract is awarded for material only, it will be the responsibility of the Engineer to inspect all material delivered under the contract to ascertain if the material is acceptable as to quantity, grade, and quality. The Engineer will make this final inspection after the County Supervisor has advised him that all deliveries under the contract have been made.

(3) *Use of Form FHA-926, "Certificate of Final Inspection."* All final inspections of farm development work performed by or under the direction of the borrower or by contract will be reported on Form FHA-926. The official making the final inspection shall include recommendations for correcting any discrepancies.

(i) Form FHA-926, submitted by the County Supervisor, will be prepared in an original and two copies. The original will be transmitted to the State Office to be placed in the borrower's State Office case file; one copy sent to the Engineer; and one copy will be placed in the borrower's County Office case file.

(ii) Form FHA-926, submitted by the Engineer, will be prepared in an original and one copy. The original will be transmitted to the State Office to be placed in the borrower's State Office case file; and the copy given to the County Supervisor who will place it in the borrower's County Office case file.

(f) *Payments.*—(1) *Work done by or under the direction of the borrower; payment of laborers and material suppliers.* The County Supervisor will encourage borrowers to pay obligations promptly. Payment of bills for labor and material will be made as soon as practicable after the bills are received and will be made by check signed by the borrower and countersigned by the County Supervisor.

(i) The County Supervisor will have in his possession itemized statements from the creditor covering material furnished and/or labor performed before countersigning checks. Such statements will be signed by the borrower as correct and received. Statements covering labor will show the names of persons hired, dates they worked, number of hours (or days) worked, total hours (or days) worked, rate per hour (or day) and total amount due. The check number and the date of payment will be indicated on all invoices and hired labor statements. These invoices and statements then will be placed in the borrower's County Office case file.

(ii) Whenever the County Supervisor has reason to believe that there may be danger of claims, because of disputes, dissatisfaction, or other causes, he will require the borrower to secure one copy of Form FHA-205, "Release by Claimants," before countersigning the check for final payment. The signed Form FHA-205 will be placed in the borrower's County Office case file. It is not necessary to have Form FHA-205 notarized when used in this manner. The State Director, at his discretion, may require the use of Form FHA-205 in all instances.

(iii) Under no circumstances will the County Supervisor permit funds to be withdrawn from a borrower's supervised bank account to pay the borrower for labor performed by himself on his farm.

(2) *Work done by contract.*—(i) *Payment of contractors.* When Form FHA-200 is not used, payment will be made by check signed by the borrower and countersigned by the County Supervisor and in the following manner:

(a) In one lump sum for the whole contract after the work is finished, inspected, and accepted. This payment will be made only after the contractor has executed Form FHA-232, (Form Letter—Certificate of Contractor's Release), in which he (1) acknowledges payment in full for his services, (2) certifies that he has paid for all labor employed and materials purchased by him in performance of his contract, and (3) certifies that there are no claims against him because of injuries sustained by his employees. The contractor will attach to Form FHA-232 a completed Form FHA-205, notarized properly. The County Supervisor then will send Form FHA-232 and the notarized Form FHA-205 to the State Office where they will be examined

and placed in the borrower's State Office case file.

(b) Upon completion of any major item, partial payments may be made up to 80 percent of the contract price of that item upon final inspection and approval by the Engineer. When this method is used, payment will be made only when the applicable provisions of the previous paragraph have been met with respect to the completed major item. Form FHA-232 will be signed by the contractor and will indicate only the amount of payment received, which will not be in excess of the 80 percent permissible. When Form FHA-232 is to be used in this manner, as a receipt for partial payments, it will be rewritten with the necessary changes. Final payment shall be made on all items only after the contractor complies with the requirements of the previous subparagraph.

(c) When a separate contract is awarded for the furnishing of material only, one payment will be made by check signed by the borrower and countersigned by the County Supervisor for the entire amount of the material contract price. The check for this payment will not be issued until (1) the Engineer has reported in writing that he has inspected the material delivered under the contract and finds it acceptable as to quantity, grade, and quality, (2) the borrower has signed the itemized statement of material as correct and received, and (3) the contractor has signed Form FHA-232, and has attached completed Form FHA-205, notarized properly. The County Supervisor will advise the borrower to store properly and care for all material delivered under the contract.

(ii) When Form FHA-200 is used, partial payments may be made after the Engineer has inspected the work and has indicated in writing that all of the terms of the contract are being complied with. The percentage of completion and the maximum payment will be determined by the Engineer. Final payment will be made to a contractor only when the work is finished, inspected, and accepted by the Engineer, at which time the entire amount will be due and payable. When Form FHA-200 is used, Form FHA-232 will be required of the contractor only to acknowledge payment in full. Form FHA-205 will not be required.

(iii) Circumvention of the above methods of payment through modification of Form FHA-296 by inclusion of special conditions, or any other device whatsoever, expressly is prohibited. (60 Stat. 1062; Order, Secretary of Agriculture, Oct. 14, 1946, 11 F. R. 12520, 7 CFR, 1946 Supp.; Order, Acting Secretary of Agriculture, Oct. 30, 1947, 12 F. R. 7137, 7 CFR, 1947 Supp.)

Dated: September 23, 1948.

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

Approved: October 19, 1948.

A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 48-9329; Filed, Oct. 21, 1948;
8:51 a. m.]

No. 207—2

Subchapter I—Account Servicing

PART 387—SECURITY

FARM OWNERSHIP SECURITY

Part 387, "Security," in Title 6, Code of Federal Regulations (6 CFR, 1947 Supp.), is amended by the addition of §§ 387.32, 387.33, 387.35, and 387.36.

- Sec.
- 387.32 Farm Ownership program; general security servicing.
- 387.33 Farm Ownership program; voluntary conveyance of farms to the Government.
- 387.35 Farm Ownership program; management and disposition of acquired farms.
- 387.36 Farm Ownership program; sale of farms not suitable for purposes of Title I.

AUTHORITY: §§ 387.32 to 387.36, issued under 60 Stat. 1062; Pub. Law 249, 80th Cong., 61 Stat. 493; Pub. Law 720, 80th Cong., 62 Stat. 534; Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520, 7 CFR, 1946 Supp., page 524; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137, 7 CFR, 1947 Supp., page 879.

§ 387.32 *Farm Ownership program; general security servicing*—(a) *General*—(1) *Purpose*. This section prescribes the authorities, policies, and procedures for use in general security servicing with respect to direct Farm Ownership loans and insured loans which have been assigned to the Government. However, paragraph (c) of this section also applies to insured loans prior to assignment to the Government.

(2) *Applicability*. For the purpose of this section, Farm Ownership farms include farms which are security for direct loans made pursuant to Title I of the Bankhead-Jones Farm Tenant Act; insured loans which have been assigned to the Government; credit sales of farms pursuant to sections 43 and 51 of the Bankhead-Jones Farm Tenant Act, as amended, and Public Law 563, 79th Congress; loans and credit sales by the State Rural Rehabilitation Corporations directly or under transfer agreements with the Secretary of Agriculture; loans made out of loans, grants and Rural Rehabilitation funds for farm improvement or farm development; mortgages assigned to the Government as security for, or the payment of, loans to, or in liquidation of, Defense Relocation Corporations, and Land Leasing and Land Purchasing Associations, including Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lake, Inc., and Dyess Farms, Inc.

(3) *General policies*. Security servicing actions, must be guided by the general purposes of the Farm Ownership program to assist a borrower who cannot get credit elsewhere in achieving ownership of an efficient family-type farm-management unit. No servicing action should be taken which will have the effect of reducing the farm unit in size or in capacity below that required by the borrower for the orderly repayment of his loan, the maintenance of a reasonable standard of living, and to assure that he and his family will continue to have a farm which at least will meet the minimum standards prescribed for the Farm Ownership program.

(b) *Delegation of authority*. Subject to the policies and procedures prescribed herein with respect to direct Farm Ownership loans and insured loans which have been assigned to the Government:

(1) The State Director is authorized to:

(i) Determine when it appears that a borrower can secure refinancing credit and require refinancing when other acceptable credit is available.

(ii) Approve grant of easements and rights-of-way by borrowers.

(iii) Approve sale or exchange of portion of farm.

(iv) Approve sale or exchange of water rights.

(v) Approve sale or lease of mineral rights owned by borrowers.

(vi) Approve leases by, or to lease on behalf of, the borrowers.

(vii) Execute caretaker's agreement.

(viii) Make advance of funds on behalf of the borrower and charge the amounts to the borrower's Farm Ownership account.

(ix) Approve the sale of a farm outside the program.

(x) Assign, without recourse, Farm Ownership notes and security instruments.

(2) The State Field Representative is authorized to:

(i) Consent to the construction or alteration of buildings other than planned when the labor and material cost will exceed \$500 and is paid by the borrower.

(ii) Approve the sale or exchange (including removal) of timber when the proceeds of the sale or sales within a 12-month period will exceed \$100.

(iii) Approve the sale (including removal) of sand, gravel, stone, or coal which the borrower owns when the proceeds of the sale or sales within a 12-month period will exceed \$100.

(3) The County Supervisor is authorized to:

(i) Consent to the construction or alteration of buildings other than planned when the labor and material cost will not exceed \$500 and is paid by the borrower.

(ii) Approve the sale or lease of naval stores.

(iii) Approve the sale or exchange (including removal) of timber when the proceeds of the sale or sales within a 12-month period will not exceed \$100.

(iv) Approve the sale (including removal) of sand, gravel, stone, or coal which the borrower owns when the proceeds of the sale or sales within a 12-month period will not exceed \$100.

(c) *Refinancing with respect to loans made on and after November 1, 1946*. The Bankhead-Jones Farm Tenant Act, as amended, and the security instruments executed on or after November 1, 1946, require the borrower, upon request of the Secretary, to apply for and accept a loan from cooperative or private credit sources in sufficient amount to repay the secured indebtedness. As soon as possible after March 31, 1949, and each March 31 thereafter, the County Supervisor will review all outstanding direct and insured Farm Ownership loans made on or after November 1, 1946, and will present for consideration of the

County Committee those loans on which 35 percent or more of the principal of the loan has been repaid. The County Committee will consider and make its recommendation as to those borrowers who it believes may be able to secure other financing on reasonable rates and terms prevailing in the community but not to exceed the interest rate of 5 percent. Before making its recommendation, the County Committee may deem it advisable to make a preliminary check in the area to determine if such credit appears to be available. Their findings will be included in their recommendation to the State Director. Each borrower who the County Committee believes may be able to secure such refinancing, shall be notified by a letter from the County Supervisor to attempt to secure other financing and to report the results of his efforts to the County Supervisor within 60 days. In the case of an insured loan, a copy of the letter will be forwarded to the holder of the mortgage or deed of trust. At the expiration of the 60-day period, the County Supervisor will submit to the County Committee a list of those borrowers who have reported that other financing is available, a list of those who have reported that other financing is not available, and a list of those borrowers who have not responded to the letter. Borrowers who are able to secure other financing will be instructed to proceed and their cases will be handled in the same manner as repayments of loans in full. The County Committee will recommend to the State Director the action which should be taken with respect to borrowers who reported that they are unable to secure other financing and the borrowers who have failed to respond to the County Supervisor's letter. The State Director will determine whether to give the borrower another opportunity to refinance, to assist in locating other lenders who might refinance the borrower's indebtedness, or to proceed with liquidation of the borrower's security. The State Director will take into consideration the progress the borrower has made, his continued need for supervision and whether his failure to secure other financing demonstrates a lack of good faith. In any case where the borrower has not attempted in good faith to secure other financing when it appears that other financing is available, and that with such other financing the borrower is likely to succeed in the repayment of the refinanced balance, the State Director will proceed with the liquidation of the security.

(d) *Partial release of, subordination of, or consent under, the terms of Farm Ownership security instruments*—(1) *Purposes and conditions.* The security instruments generally provide that the written consent of the Government must be obtained for (i) the making of improvements, (ii) the granting of easements and rights-of-way, (iii) the sale of any portion of the farm, (iv) the sale or exchange of water rights, (v) the sale or lease of sand, gravel, coal, oil, gas, and other minerals, (vi) the leasing of naval stores, and (vii) the cutting and sale (including removal) of timber. However, the security instruments permit the use of such timber, gravel, oil, gas, coal,

or other minerals as may be necessary for ordinary domestic purposes. It is the responsibility of the borrower to keep the land in a good state of cultivation, as well as the farm buildings and fences in good repair, so that the farm will continue to meet minimum Farm Ownership standards. Therefore, a Farm Ownership borrower will not be required to obtain consent for normal maintenance, repairs, or for the construction of movable buildings. A proposed purchaser or lessee will be informed that the proposed sale or lease is contingent upon approval by the authorized representative of the Farmers Home Administration. The consent of the Government will usually be given by the appropriate approving official to each application for release: *Provided*, That (i) the Government will suffer no financial detriment by reason of the transaction, (ii) the consideration (monetary or other) for any sale, exchange, or lease is adequate, (iii) the borrower enters into a satisfactory arrangement with the Government with respect to the disposition of any proceeds, (iv) the farm will not be rendered less than an efficient family-type unit, and (v) the following applicable conditions are met:

(a) *Making of improvements other than planned.* The request of a borrower to make structural improvements, after planned improvements have been completed, such as the alteration of existing buildings or construction of new buildings not contemplated in his Farm Development Plan, may be approved as follows:

(1) The County Supervisor may consent, on behalf of the Government, to the borrower making minor structural improvements, such as erecting a poultry house, a small granary, a small hog house, a machine shed, a privy, an addition to a barn, and so forth, when the labor (including that of the family computed at prevailing wages for such labor) and material cost of such minor improvements is borne by the borrower and will not exceed \$500.

(2) The State Field Representative may consent, on behalf of the Government, to the construction or alteration of any building, such as the adding of new rooms to or the altering of the design of an existing dwelling, construction of a new dwelling, barn, or other durable and stationary building, when the labor (including that of the family computed at prevailing wages for such labor) and material cost of such improvements is borne by the borrower and will exceed \$500. No consent will be granted for the construction of a dwelling designed for occupancy by tenants, sharecroppers, or farm laborers of the borrower. Consent to construct buildings not essential to the farming operations will be granted only when it appears that the making of the expenditure will not prevent the repayment of the loan by the borrower in accordance with his repayment schedule after the expenditure for such improvements.

(b) *Grant of easements and rights-of-way.* The State Director may approve, on behalf of the Government, a

borrower's application for permission to grant an easement or right-of-way, and such approval will be given as a general rule upon the determination by the State Director that the granting of the easement or right-of-way will not render the unit less than an efficient family-type unit and the compensation received by the borrower, whether monetary or in the nature of services or facilities made available, compensate the borrower sufficiently.

(c) *Sale or exchange of portion of farm.* The State Director may approve, on behalf of the Government, the sale of a portion of a Farm Ownership farm, provided that such sale does not render the farm less than an efficient family-type unit. The State Director also may approve the sale of a portion of the farm where the acreage to be sold is to be replaced by the acquisition of other land. If the transaction involves merely an exchange of property, the existing security instrument on the portion of the farm to be conveyed may be released and a new security instrument taken on the land to be acquired. If the exchange involves sale and purchase, approval of sale will be withheld until the acceptance of the option on the tract to be acquired and the proceeds of sale will be held in the borrower's supervised bank account, or in escrow, for application on the purchase price of the additional land. Any excess proceeds will be applied as an extra payment on the loan. Each application for the sale or exchange of a portion of a farm will be sent to the State Director accompanied by a recommendation signed by the County Supervisor and at least two members of the County Committee.

(d) *Sale or exchange of water rights.* The State Director may approve, on behalf of the Government, the sale or exchange of water rights. An application of a Farm Ownership borrower for permission to sell or exchange water rights will be approved only upon the recommendation of the County Committee, and a determination that the sale or exchange of the water rights will not affect adversely the operation of the farm as an efficient family-type unit. The sale or exchange of such rights may be approved in connection with the acquisition of a better supply of water for the farm or to assure more permanent and more economical delivery of water.

(e) *Sale or lease of mineral rights.* The State Director may approve, on behalf of the Government, the sale of mineral rights or the leasing of land for minerals, provided that the borrower obtains guarantees of compensation which are deemed adequate protection against damage to the surface in the event the minerals are developed, and such sale or lease will not render the farm less than an efficient family-type unit. This applies regardless of whether the borrower owns all or part of the mineral rights. The State Director may establish a minimum price per acre for which any application to sell mineral rights will be approved. He also may establish a minimum per acre rental for which approval will be given for the leasing of land for minerals. Sand, gravel, and stone ordinarily are considered to be minerals ex-

cept in those localities where general mineral reservations do not include sand, gravel, or stone. Where the United States has retained a mineral interest, the application of a borrower for approval of sale of sand, gravel, or stone should be submitted to the representative of the Office of the Solicitor for determination as to whether such materials are minerals belonging to the United States. The mineral interest of the United States is subject to lease by the Secretary of the Interior and applications for such lease will be sent by the prospective lessee direct to the Bureau of Land Management, Department of the Interior, Washington 25, D. C.

(f) *Sale or lease of naval stores.* The County Supervisor may consent, on behalf of the Government, to the sale or lease of naval stores by a borrower. *Provided*, That the sale or lease requires operation consistent with approved naval stores practices.

(g) *Sale or exchange (including removal) of timber.* (1) The County Supervisor may consent, on behalf of the Government, to the use of timber or the exchange of timber when such materials are to be used for repairs or improvements on the farm. He may approve the sale of timber by the borrower when the proceeds of the sale or sales within a 12-month period will not exceed \$100.

(2) The State Field Representative may approve, on behalf of the Government, the sale of timber, the proceeds of which will exceed \$100. If the sale involves an appreciable amount of timber, the State Field Representative will confer with the State Director and obtain qualified technical assistance, when available, to check or cruise the timber to be sold and inform the borrower with reference to the value of the timber. If selective cutting based on a sustained yield plan is involved, technical assistance should be provided, if possible, to assist the borrower in selecting the timber to be cut.

(h) *Sale (including removal) of sand, gravel, stone, or coal owned by the borrower.* (1) The County Supervisor may approve, on behalf of the Government, the sale of sand, gravel, stone, or coal when the proceeds of the sale or sales within a 12-month period will not exceed \$100.

(2) The State Field Representative may approve, on behalf of the Government, the sale of sand, gravel, stone, or coal when the proceeds of the sale or sales within a 12-month period will exceed \$100.

(2) *Preparation and processing of Form FHA-696, "Application for Partial Release, Subordination, or Consent."* When a borrower desires a partial release or subordination of the lien of the security instrument or the Government's consent to transactions authorized under this section, he will make application therefor on Form FHA-696. The borrower's application will be approved or disapproved by the Farmers Home Administration employee designated herein to give consent or approval, on behalf of the Government, to the particular request. A formal release or subordination of lien will not be furnished except when requested.

(3) *Preparation and processing of releases and subordinations.* Each application requiring a formal release or subordination of lien will be forwarded by the State Director to the representative of the Office of the Solicitor, together with related information and a request for the preparation of Form FHA-99, "Release," or other appropriate form. If the representative of the Office of the Solicitor approves the transaction as to legality, he will prepare the appropriate instrument in an original and three copies and send them with such instructions as may be necessary to the State Director who will execute the original and conform the three copies.

(4) *Assignment of income from mortgaged property.* When all the proceeds from any transaction authorized herein are to be collected at the time of delivery of the release or subordination, it will not be necessary to use Form FHA-253B, "Assignment of Income from Mortgaged Property." However, in each case where all or part of the proceeds are to be collected subsequent to the time of delivery of the release or subordination, Form FHA-253B will be prepared by the County Supervisor in an original and three copies, the original and all copies of which will be signed by the borrower and his wife at the time Form FHA-696 is executed.

(e) *Actions by third parties affecting security.* The borrower ordinarily will be required to represent his own interest in condemnation suits, trespass cases, and title cases if he does not have an owner's policy of title insurance, but if the security interest of the United States is affected, the United States Attorney will be requested to represent the Government's interest. If the title is insured and the policy covers the point in question as determined by the representative of the Office of the Solicitor, the title insurance company should be notified by the representative of the Office of the Solicitor in order that it may have an opportunity to undertake the defense of the title. However, it also may be necessary that the interest of the United States be represented by the United States Attorney.

(f) *Lease of farm by or on behalf of the borrowers.* One of the principal objectives of the Farm Ownership program is the continued personal occupancy and operation of the borrower's farm as a family-type farm. Whenever a borrower ceases to personally occupy and operate the farm, the purpose for which the loan is made has ceased to exist. Consequently, as a general rule, permission will not be granted for the lease of the farm by the borrower or the occupancy thereof by other persons. However, circumstances may arise, such as death within family, poor health, abandonment, and so forth, which may make it necessary to lease the farm. Therefore, in such instances, the State Director may authorize the borrower to lease the farm, or part thereof, for such period as he deems justifiable, but ordinarily not to exceed one year. If the borrower is not available to execute the lease or will not consent to the lease and the State Director determines that the oc-

cupancy and operation of the farm is necessary for the protection of the Government's security, he may execute a lease on behalf of the borrower, pursuant to the provisions in the security instrument.

(1) *Preparation of lease.* The original and all copies of the lease will be signed by the lessor and lessee. In case of a deceased borrower, a person legally empowered to execute the lease may sign as lessor. If a borrower is unable or unwilling to execute the lease, it will be signed by the State Director on behalf of the borrower. The prospective renter and the borrower should be informed that the leasing arrangement is subject to approval of the State Director. If, in the opinion of the County Supervisor, there is little likelihood of the lease being disapproved, and circumstances require immediate occupancy, he may permit the renter to take possession of the farm prior to such approval by the State Director and the necessary corrections in the lease should be settled with the borrower and the renter if advice is received from the State Office that the lease was approved on terms other than those submitted by the borrower and renter.

(2) *Approval of lease.* Upon examination and approval of the lease in the State Office, the State Director will sign the lease. If the lease has been signed by the borrower, as lessor, the State Director will sign in the space provided for approval. However, if it is necessary to execute the lease on behalf of the borrower, the State Director will sign in the space provided for the signature of the lessor, and the words, "United States of America," will be typed above his signature and his title will be typed below his signature.

(3) *Suggestions to renter.* The renter of a Farm Ownership farm will be encouraged to participate in the agricultural conservation programs which are available and will be of benefit to the farm and his progress. He should be encouraged also to keep records of farming operations similar to those kept by borrowers of the Farmers Home Administration, especially if he is a prospective applicant for a Farm Ownership loan. The County Supervisor FHA-195, "Farm Family Record Book," and instruct him with respect to keeping records.

(g) *Vacated farms—(1) Initial actions required.* If a borrower vacates his Farm Ownership farm without approval by the Government, the County Supervisor will undertake to arrange for the transfer of the farm to an approved Farm Ownership applicant or for the voluntary conveyance of title to the Government. When the borrower is unwilling to transfer the farm to an approved applicant, or is unwilling to convey title voluntarily to the Government, the County Supervisor will report the case to the State Director. The State Director will instruct the County Supervisor to take one or more of the following actions:

(i) Arrange for the borrower to lease the farm for not more than a one-year period.

(ii) Submit for review and approval a lease on behalf of the borrower.

(iii) Secure a caretaker.

(iv) Submit necessary additional information for use in connection with foreclosure, if appropriate.

(2) *Completion of planned improvements.* When Farm Ownership loan funds remain in the borrower's supervised bank account as a result of not having been used to complete improvements as originally planned by the borrower, such improvements may be completed, during the period the farm is leased, in accordance with the authority contained in Form FHA-668, "Loan Agreement and Request for Funds," provided that such improvements are completed as previously planned and approved by the borrower, as reflected in Form FHA-643, "Farm Development Plan." If possible, such improvements should be performed by contract and the leasing of the farm will not be affected except that the lease should contain a clause permitting the contractor to enter the property. Under certain circumstances, especially where soil improvements are involved, it may be desirable to have the improvement work done by the renter as a contractor because the making of such improvements may affect his farming operations. If the State Director deems it inadvisable to complete the improvements by using the Farm Ownership loan funds remaining in the borrower's supervised bank account, such funds will be returned as a refund on the borrower's Farm Ownership loan. However, payment may be authorized by the State Director, with the advice of the representative of the Office of the Solicitor, in those cases where a contract for improvement, approved by the Government, had been entered into between the borrower and a contractor.

(h) *Death of borrower.* The death of a Farm Ownership borrower should be reported immediately on Form FHA-141, "Report on Deceased Borrower."

(1) *Determination of the family with respect to disposition of farm.* The decision as to whether the family will continue to live on and operate the farm ordinarily will be decided by the surviving obligor(s) on the note. Ample time should be allowed the family within which to make this determination.

(i) *Where family desires to continue operation of farm.* The State Director usually will approve the continued operation of the farm by the family, if they so desire. However, if the State Director finds that because of age, mental or physical condition, or the lack of family labor, there is doubt as to the family's ability successfully to carry on the undertakings required of it, and if such difficulties cannot be overcome, he will direct that negotiations be undertaken with the family for liquidation of the account through transfer, voluntary conveyance, or otherwise. If legal title does not pass to the surviving obligor on the note by operation of law, title will be consolidated in one member of the family, if legally possible by foreclosure or otherwise, unless such action is undesirable because of the conditions mentioned above, or because of the possibility that the family in whom title is being consolidated may not be the successful bidder at the foreclosure sale. Consolidation

of title will be in accordance with instructions from the representative of the Office of the Solicitor. All expenses in connection with consolidation of title shall be paid by the person in whom the title is consolidated, including, if necessary, new owners' and mortgagees' policies of title insurance.

(ii) *Where family desires to discontinue operation of farm.* When the surviving obligor or heirs of the deceased borrower do not desire to continue operation of the farm, the County Supervisor will negotiate with the family for an agreement whereby the account will be liquidated to the best advantage of all parties concerned. In cases where some of the heirs are minors or under other legal disability, it may be necessary to foreclose. In the case of foreclosure, the family must be advised as to the necessity of such action, and the State Director will proceed under the guidance of the representative of the Office of the Solicitor. The County Supervisor will submit a report to the State Director which will include his recommendation, as well as the recommendation of the County Committee, with respect to (a) transfer of the farm, (b) conveyance of title to the Government, (c) sale outside the program, (d) leasing of the farm, (e) appointment of caretaker, or (f) foreclosure of the security instrument.

(i) *Sale of farm outside the program.* (1) One of the purposes of the Farmers Home Administration is to keep intact as family-type farms the units established under the Farm Ownership program. However, it is recognized that circumstances may arise wherein a satisfactory plan cannot be worked out to keep the farm in the program and the borrower will be justified in selling his Farm Ownership farm outside the program. Such circumstances may be unanticipated changes in family status, or changes in land use in the community in which the land is located. So long as there is any outstanding indebtedness, the security instrument requires the consent of the Farmers Home Administration before the sale of the farm. A request to sell a Farm Ownership farm outside the program will be approved by the State Director only when the sale will result in the complete liquidation of the Farm Ownership indebtedness and all other indebtedness owed by the borrower to the Farmers Home Administration, or the payment in full of the Farm Ownership debt and the borrower makes satisfactory arrangements with respect to the liquidation of any other debts owed to the Farmers Home Administration. The borrower should make his request in writing and outline therein his reasons for desiring to sell his farm, the person to whom it is to be sold, if known, the sales price, and his agreement with respect to debt liquidation. If the request is approved and funds are tendered to pay the account in full, the case will be handled in accordance with § 381.2 of this chapter.

(2) The County Supervisor will prepare and submit to the State Office a conformed copy of the borrower's written request to sell his Farm Ownership farm outside the program. In addition, the County Supervisor will submit a writ-

ten statement signed by him and at least two members of the County Committee, which contains their recommendations based on an analysis of the borrower's request. If the borrower refuses to make his request in writing, the County Supervisor will submit a report summarizing the borrower's reasons, along with the recommendations.

(i) *Requests submitted within five years from date of loan.* Except in a case where profit-making is the only significant motive, the State Director may approve a request to sell a Farm Ownership farm outside the program within five years from the date of the loan, if in his opinion, the circumstances warrant such approval. Where the only significant motive for sale is profit-making, the State Director will submit a conformed copy of the borrower's request, or summary of the borrower's reasons if he refuses to make a written request, and the recommendation of the County Supervisor and the County Committee, as well as his recommendation, to the National Office for consideration.

(ii) *Requests submitted after five years from date of loan.* The State Director may approve all requests to sell Farm Ownership farms outside the program after five years from the date of the loan.

(j) *Assignment of farm ownership notes and security instruments.* There may be cases, when a loan is refinanced, where the lender may request assignment of the note(s) and security instrument(s) as a condition to making the loan.

(1) *Assignment in connection with refinancing under paragraph (c) of this section.* When refinancing is required in accordance with paragraph (c) of this section and the lender requests assignment as a condition to making the loan, the State Director will assign, without recourse, the note(s) and security instrument(s) held by the Farmers Home Administration evidencing and securing the Farm Ownership loan(s).

(2) *Assignment under other conditions.* When the borrower requests assignment under conditions other than as outlined in paragraph (c) of this section, the State Director may assign, without recourse, Farm Ownership note(s) and security instrument(s), if he deems the circumstances justifiable. However, to assign securities for the purpose of facilitating refinancing when a borrower has not fulfilled the covenants incident to his Farm Ownership loan, tends to undermine the purposes for which the act was established.

(i) In those cases where the borrower has fulfilled the covenants incident to his Farm Ownership loan and plans to continue living on and personally operating the farm as a family-type unit, or the farm is not an efficient family-type unit, or is otherwise undesirable to retain in the program, the State Director may assign, without recourse, note(s) and security instrument(s) held by the Farmers Home Administration evidencing and securing Farm Ownership loan(s), provided that the lender requests such assignment as a condition to making the loan, and provided further that the borrower's indebtedness to the Farmers

Home Administration is retired fully as a result of such refinancing.

(ii) In those cases where the borrower has not kept faith with the covenants incident to his loan, in that he has permitted his account to become delinquent, has permitted the security to depreciate, or is not living on and personally operating the farm, or is committing some other violation that singly or in combination would justify foreclosure action, the State Director may refuse to assign the securities. If some other method cannot be mutually arranged for working out a satisfactory solution, such as the transfer of the farm or conveyance of title to the Government, the State Director may initiate foreclosure action, under the advice and guidance of the representative of the Office of the Solicitor.

(3) *Method of assignment.* All assignments of securities shall be in the form and manner approved by the representative of the Office of the Solicitor.

(k) *Compromise, adjustment, or reduction of farm ownership indebtedness.* Most compromises, adjustments, or reductions of Farm Ownership indebtedness will be effected in connection with the transfer of farms to approved Farm Ownership applicants, or voluntary conveyance of title to the Government. However, there may be other cases in which compromise, adjustment, or reduction of the indebtedness will be justifiable. Such cases will be considered on an individual case basis and will be based on the debtor's ability to pay and the value of the security. In no case, however, will the debt be settled for an amount less than the value of the security. If, in this type of case, the State Director is of the opinion that a basis for compromise, adjustment, or reduction exists, he will have Form FHA-858, "Application for Settlement of Indebtedness," prepared and executed. The original and one copy of Form FHA-858, along with the borrower's State Office case file(s), will be forwarded to the National Office for consideration. In those cases where the borrower is deceased, or his whereabouts is unknown, Form FHA-859, "Advice of Cancellation of FHA Indebtedness," will be used. The original and one copy of Form FHA-859, the original and one copy of the recommendation of the County Committee and the State Office case file(s), will be forwarded to the National Office for consideration. The State Director will give a complete report on the case and make his recommendations in his letter of transmittal.

§ 387.33 *Farm ownership program; voluntary conveyance of farms to the government—(a) General.* This section prescribes the authorities, policies, and procedures for:

(1) Processing offers from Farm Ownership borrowers who desire voluntarily to convey titles to their Farm Ownership farms to the Government in lieu of foreclosure. For the purposes of this section:

(i) A borrower is the person or persons in, whom legal title to a Farm Ownership farm is vested.

(ii) A Farm Ownership farm is one which is subject to a first mortgage or deed of trust to secure payment of one or more of the accounts identified in paragraph (b) of this section.

(2) Crediting borrowers' accounts with the value of their farms.

(3) Releasing borrowers from personal liabilities after such conveyances are made and credits are allowed.

(4) Servicing outstanding balances which may be owing on accounts after credits are allowed.

(b) *Identification of Farm Ownership loan accounts.* For the purpose of this section, accounts are identified and defined as follows:

(1) *Accounts owed to the Farmers Home Administration.* (i) Accounts resulting from Farm Ownership loans made from (a) Title I funds, and (b) Special Real Estate loans, Farm and Home Improvement loans, and Farm Development loans from funds made available for Loans, Grants, and Rural Rehabilitation.

(ii) Accounts resulting from credit sales by the Government of Government-owned farms.

(iii) Accounts resulting from notes and mortgages given or assigned as further security on the outstanding debt to the Government securing credit sales of farms which were sold by Defense Relocation Corporations or land leasing and land purchasing associations, except the special accounts listed in subparagraph (3) of this paragraph.

(iv) Accounts resulting from the assignment of the Secretary of Agriculture of mortgages insured pursuant to the provisions of the Bankhead-Jones Farm Tenant Act, as amended.

(2) *Accounts which represent (in whole or in part) State Rural Rehabilitation Corporation assets.* (i) Accounts resulting from Farm Ownership loans made from State Rural Rehabilitation Corporation funds including loans made on terms comparable to terms of loans under Title I.

(ii) Accounts resulting from credit sales by a State Rural Rehabilitation Corporation or the Government of farms which represent an asset of a State Rural Rehabilitation Corporation or a joint investment asset.

(3) *Special Farm Ownership accounts.* Accounts resulting from notes and mortgages assigned to the Government securing credit sales of farms sold by the following special land purchasing and development corporations:

(i) Dyess Farms, Inc.
(ii) Georgia Pine Mountain Valley Rural Community Corporation.
(iii) Cherry Lake, Inc.

(c) *Delegation of authority.* The State Director, subject to the policies and procedures prescribed herein, is authorized to:

(1) Accept a deed offered by a Farm Ownership borrower.

(2) Pay the expenses incident to the vesting of title to a Farm Ownership farm in the Government when a borrower has authorized the charging of such expenses to his Farm Ownership account.

(3) Credit a borrower's Farm Ownership account with the value of his Farm

Ownership farm, as determined by the State Director, and with any additional credits to which the borrower may be entitled.

(4) Release a borrower from personal liability on his account after such credits are allowed and to release the lien of (or satisfy) the security instrument.

(d) *Policies affecting conveyance of title to the Government.* A Farm Ownership borrower who desires to give up his farm should be encouraged to avoid the disadvantages and expenses of foreclosure action by the Government, unless the circumstances are such that no alternative to foreclosure is legally available. In order of preference, the possibilities of the following remedies other than foreclosure should be exhausted:

(1) Transfer of the farm to an approved applicant;

(2) Conveyance of title to the Government;

(3) Sale of the farm for cash outside the program for an amount not less than the amount of the outstanding indebtedness.

(1) *Conditions to be met by borrower before offer can be accepted.* The following conditions must be met by the borrower in connection with an offer to convey title to his farm to the Government before the deed can be accepted:

(i) *Payment of expenses incident to conveyance of title.* He must agree to pay, or consent to the Government paying and charging to his Farm Ownership account, all expenses incident to conveying satisfactory title to the Government, such as cost of:

(a) Supplementary title evidence, including curative material.

(b) Delinquent real estate taxes and assessments.

(c) Acknowledgment of the deed to the Government.

(d) Revenue stamps required on the deed.

(e) Recordation of the deed.

(f) Recordation of satisfaction of mortgages and other security instruments, cancellations or revocation of powers of attorney, and curative material.

(ii) *Removing liens or other title defects.* He must agree, if title examination reveals any liens or other defects which arose subsequent to recording of the security instrument held by the Farmers Home Administration (other than defects resulting from taxes and assessments), that he will remove such defects with personal funds before transfer of title is completed. The expense of curing title defects other than those resulting from taxes and assessments will not be paid by the Government and charged to the borrower's account.

(iii) *Assignment of insurance.* He will be required to continue to maintain property insurance on the buildings on his farm while his offer is pending and until such time as title to his farm is vested in the Government. He must agree to assign to the Government all right, title, and interest in:

(a) All existing real property insurance policies insuring the buildings on his farm.

(b) And to any claims under insurance policies for damage to, or destruction of, insured buildings on his farm.

(iv) *Assignment of leases.* He must agree to assign to the Government all his right, title, and interest in all outstanding agricultural and mining leases to which his farm is subject.

(v) *Possession.* If the borrower is occupying the farm, he must agree to give possession at the time the deed is accepted. However, if it is desirable that he remain temporarily on the farm, a caretaker's agreement may be entered into with him on Form FHA-529, "Caretaker's Agreement," covering a period of not more than 60 days after acceptance of the deed.

(vi) *Refund of unused loan funds.* He must agree to refund, when requested by the Government, any unused Farm Ownership loan funds remaining in his supervised bank account.

(2) *Crediting Farm Ownership accounts with the value of acquired farms.* Upon acceptance of a borrower's offer to convey title to his farm to the Government, the borrower's Farm Ownership account will be credited with the value of his farm, as determined by the State Director, or with the total amount that is owing on his account after all vouchers covering expenses incident to conveying title to the Government are charged thereto, whichever is the lesser.

(3) *Servicing balances outstanding on Farm Ownership accounts after credits are applied.* The source of funds from which a borrower's Farm Ownership account originated is of primary significance in determining the nature of the servicing action applicable to balances outstanding after authorized credits are allowed. The different types of balances outstanding will be serviced as follows:

(i) *Balances outstanding on Farmers Home Administration accounts.* A borrower may be released from personal liability on balances outstanding on accounts owing to the Farmers Home Administration described in paragraph (b) (1) of this section, with or without the payment of consideration: *Provided*, The County Committee recommends and certifies and the State Director determines that the borrower has cooperated in good faith with the Secretary of Agriculture, has farmed in a workmanlike manner, has used due diligence to maintain the security against loss, and otherwise has fulfilled the covenants incident to his loans to the best of his ability. A release from liability on terms more favorable than those recommended by a County Committee will not be approved.

(ii) *Balances outstanding on State Rural Rehabilitation accounts.* A borrower may be released from personal liability on balances outstanding on accounts which represent, in whole or in part, assets of State Rural Rehabilitation Corporations, provided the balances outstanding are compromised. The State Director is authorized to compromise, adjust, or cancel such balances outstanding when eligible, in accordance with the provisions of § 386.1.

(iii) *Balances outstanding on special farm ownership accounts.* Balances out-

standing on accounts which resulted from notes secured by mortgages assigned to the Government by (a) Dyess Farms, Inc., (b) Georgia Pine Mountain Valley Rural Community Corporation, and (c) Cherry Lake, Inc., will not be compromised, adjusted, or cancelled.

(4) *Evidence of release from personal liability.* When no balance outstanding is held against the borrower after consummation of a voluntary conveyance, the borrower's note(s), stamped "Satisfied Through Surrender of Security," will be returned to him and will evidence his release from personal liability.

(e) *Submission of offers.* Form FHA-411, "Offers to Convey Farm Ownership Farm to the Government," will be used by a Farm Ownership borrower in offering to convey his farm to the Government.

(1) *Tender of deed with offer.* A deed may accompany an offer provided the borrower's Farm Ownership account is wholly owed to Farmers Home Administration (see paragraph (b) (1) of this section) and:

(i) The borrower and the County Supervisor believe that the value of the farm is not less than the amount of the Farm Ownership indebtedness plus such expense incident to the conveyance as may be charged to the account; or

(ii) The borrower believes that he is eligible for release from personal liability for any balance that may be owing on his Farm Ownership account after allowance of credit equal to the value of his farm.

(2) *Submission of offer without deed.* If the conditions enumerated in subparagraph (1) of this paragraph do not exist, a deed will not be tendered with the offer.

(f) *County committee review and recommendation.* Each offer to convey will be reviewed by the County Committee. The County Committeemen will personally examine the farm and review the current Form FHA-596, Form FHA-643, "Farm Development Plan," when it is necessary to make repairs and improvements to meet minimum standards, and the operating record of the borrower, before making recommendations. If it appears that the Government should accept the borrower's offer, the County Committee will, in memorandum form, make appropriate recommendations with respect to the fair and reasonable value of the farm.

(1) *Recommended value of offered farms.* In recommending the acceptance of an offer, the County Committee will indicate the fair and reasonable value of the offered farm in its present physical condition, based upon its normal earning capacity.

(2) *Recommendations for release from personal liability on Farmers Home Administration accounts.* In recommending the acceptance of an offer where the borrower is eligible for release from personal liability for the balance owing on his Farm Ownership account after credit is allowed (see paragraph (b) (1) of this section), a written statement by the County Committee, certifying that the borrower has acted in good faith and recommending such release, will be required before a borrower can be released.

(g) *Acceptance of offers.* The State Director will review the recommendations and other material pertaining to the offer when received from the State Field Representative. The State Director will determine whether the farm is suitable or not suitable for Title I purposes and will determine the amount of credit to be allowed to the borrower's Farm Ownership account. For farms suitable for Title I purposes, the amount will be the fair and reasonable value of the farm based upon its normal earning capacity, taking into consideration the "Earning-Capacity Report," the present physical condition of the farm, and the County Committee's recommendation of fair and reasonable value. For farms determined not to be suitable for Title I purposes, the amount will be based upon the resale value of the farm, taking into consideration its physical condition, recent sales of similar farms in the community and other factors affecting value with full regard for the fact that the farm should be resold as soon as possible at no loss to the Government. (See § 387.36.) The State Director, if he accepts the offer, will determine whether or not the borrower is to be released from personal liability for any balance that may be owing on his Farm Ownership account. (See paragraph (d) (3) of this section.)

§ 387.35 *Farm Ownership program; management and disposition of acquired farms—(a) General.* This section prescribes the authorities, policies, and procedures for the management of acquired Farm Ownership farms from the time title to such farms is vested in the United States until they are sold or disposed of, and for their sale or other disposition. For the purpose of this section, Farm Ownership farms are those which have been acquired by the United States by voluntary conveyance or through foreclosure proceedings.

(1) *Farms excepted from this section.* This section does not apply to the management, sale, or other disposition of farms which, before acquisition, represented security for (i) operating loans made from funds available for Emergency Crop and Feed Loans, Loans, Grants and Rural Rehabilitation; and Production and Subsistence Loans; and (i) obligations incurred in connection with water facilities financed out of Loans, Grants, and Rural Rehabilitation funds or funds appropriated pursuant to the Water Facilities Act of August 28, 1937.

(2) *Expedient disposition of acquired farms.* Acquired Farm Ownership farms will be sold or otherwise disposed of as expeditiously as possible consistent with the protection of the Government's investment in such farms. Insofar as practicable, preliminary arrangements for the sale of acquired farms should be completed during the process of acquisition. All acquired farms determined to be not suitable for Title I purposes shall be disposed of within 18 months after the date of acquisition.

(b) *Delegation of authority.* The State Director, subject to the policies

and procedures prescribed herein, is authorized to:

(1) Determine the suitability of acquired farms for Title I purposes.

(2) Lease or operate acquired farms.

(3) Where appropriate, pay taxes or to make payments in lieu of taxes on acquired farms.

(4) Authorize such repairs and maintenance of acquired farms as may be necessary to protect the Government's interest.

(5) Sell acquired farms and to execute deeds and other instruments necessary in connection with such sales. This authority may not be redelegated or exercised by an Acting State Director.

(6) Enter into agreements prorating the payment of rent as between the Government and purchasers of acquired farms.

(c) *State office routine subsequent to acquisition of farms.* The State Director will take such action with respect to each acquired farm as may be appropriate:

(1) *Suitability of acquired farms for Title I purposes.* The State Director will, as soon as possible after acquisition, determine whether the acquired farm is suitable for Title I purposes. If the farm is, or can be developed into, an efficient family-type farm-management unit having a total value, as repaired, improved, or enlarged, not exceeding the average value of efficient family-type farm-management units in the County with a purchaser's total investment not exceeding the County investment limit, the State Director will determine that the farm is suitable for Title I purposes. If the total value of an acquired farm, as repaired, improved, or enlarged, exceeds the investment limit for the County in which it is located, but does not exceed the average value, the case will be referred to the National Office for prior approval of its suitability for Title I purposes.

(2) *Leasing and care of acquired farms.* The State Director will furnish the County Supervisor with instructions regarding the care and leasing of acquired farms.

(i) *Leasing.* Acquired farms will be leased for the current cropping season, or the remainder thereof, when it is determined that such leasing is necessary to protect the Government's investment. All leases will be on the best reasonable terms obtainable as determined by the State Director. Rent must be payable in cash, but the amount may be based on the market value of shares of agricultural commodities. In leasing farms determined to be suitable for Title I purposes, preference will be given first to approved applicants for Farm Ownership loans and, second, to persons expected to meet the qualifications for such loans. Leases will be on terms that will not delay unnecessarily the sale of farms.

(ii) *Caretaking.* Whenever it is impracticable to lease an acquired farm, and caretaking is deemed necessary to protect the Government's investment, such farm may be operated from the date of acquisition until sale or other disposition under caretaker arrangements on terms approved by the State

Director. If a caretaker's agreement is used, compensation to the caretaker may not be paid from the proceeds of the property or income therefrom. An acquired farm cannot be operated by the Government under a caretaker's agreement for a period exceeding one year from the date of acquisition. No provision shall be included in a caretaker's agreement which will interfere with expeditious sale or other disposition of the farm.

(3) *Taxation on acquired farms.* Except as hereinafter provided, the Farmers Home Administration is required by law to pay taxes on Farm Ownership farms acquired on behalf of the Government which are determined to be suitable for Title I purposes, and to make payments in lieu of taxes on farms acquired on behalf of the Government which are determined to be unsuitable for Title I purposes.

(i) Neither tax payments nor payments in lieu of taxes will be made on acquired farms which represent assets belonging wholly to a State Rural Rehabilitation Corporation trust, except that under the transfer agreement with the South Carolina Rural Rehabilitation Corporation an obligation is imposed on the Secretary of Agriculture to pay out of the trust account such sums as are assessed by local Governments for taxes on lands transferred to the United States.

(ii) Neither tax payments nor payments in lieu of taxes will be made on acquired farms which represent assets of Dyess Farms, Inc., Georgia Pine Mountain Valley Rural Community Corporation, and Cherry Lake, Inc.

(iii) The determination whether tax payments or in lieu of tax payments will be made on joint investment acquired farms will be made on the basis of the transfer agreements and the respective investments of the Government and the Corporation in the land.

(a) When land comprising a joint investment acquired farm was acquired originally with corporation funds and subsequently improved with appropriated funds, it is considered as real estate belonging to the State Rural Rehabilitation Corporation trust and no taxes will be paid whether or not the farm is suitable for Title I purposes, except in the State of South Carolina where payments measured by tax assessments will be made in either event. Payments in lieu of taxes will be made on such farms, however, only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, West Virginia and Wisconsin.

(b) When the land was purchased with appropriated funds and improved with corporation funds, it is considered as real estate belonging to the Government and, therefore, if suitable for Title I purposes tax payments will be made in all States and if not suitable for Title I purposes payments in lieu of taxes will be made in all States.

(4) *Processing payments of taxes and payments in lieu of taxes.* At the time taxes become due and payable, the State

Director will request the County Supervisor to obtain and forward to the State Office separate statements from appropriate tax collecting officials, showing the amount of taxes that are due on each acquired farm under his jurisdiction on which tax payments are to be made, or the amount of taxes that would be due had taxes been assessed on farms on which payments in lieu of taxes are to be made. In case the statement discloses an appreciably increased rate or assessed valuation over former years, the County Supervisor will furnish full details with respect to such increase to the State Director. When there appears to have been an unjustifiable increase the State Director, with the advice of the representative of the Office of the Solicitor, will take such action as may be appropriate. In case taxes or payments in lieu of taxes are to be paid, the State Director will have Standard Form 1034 prepared and processed in accordance with applicable provisions of § 366.42 of this chapter.

(5) *Sale within the Farm Ownership program of acquired farms.* Acquired farms which are determined to be suitable for Title I purposes will, whenever practicable, be sold within the Farm Ownership program. However, such farms will be sold as expeditiously as possible, and will not be held for an unreasonable length of time for within-program disposal. If the farm cannot be sold to an eligible purchaser within two years from the date of acquisition, the State Director will report the case to the National Office for advice as to whether to dispose of such property outside of the Farm Ownership program.

(i) *Determination of selling price.* The State Director will establish the selling price, based upon the normal earning capacity of the farm, taking into consideration such amounts as may be required to repair, improve, or enlarge the farm to meet established Farm Ownership standards, and the reasonable value of the Government's interest in the mineral rights.

(ii) *Disposition of growing crops.* Growing crops, when not harvested under a caretaker's agreement, may be sold with the farm or separately. The State Director will determine the selling price thereof separately from that of the farm. Such crops may be sold for cash, but Title I funds may not be loaned to enable a purchaser to make such purchases. When growing crops are sold on credit, either with the farm or separately, a separate note will be taken to evidence the balance of the sale price, (which in the case of a separate sale will not exceed 80% of the total sale price), payable not later than when the crops will be harvested. The separate note will be secured by a lien on the growing crops.

(iii) *Selection of purchaser.* The purchaser will be selected from applicants tentatively approved in accordance with § 365.2 of this chapter, with preference accorded veterans as provided in §§ 365.1 and 366.1 of this chapter.

(6) *Methods of selling acquired farms within Farm Ownership program.* Three different methods of selling, within the Farm Ownership program, acquired farms which have been determined to be suitable for Title I purposes will be fol-

lowed. The State Director will inform the County Supervisor of the appropriate method under which each acquired farm may be sold. The methods and types of farms to which each method is applicable are:

(i) *Sale on credit where no loan is required.* Any acquired farm determined to be suitable for Title I purposes, except one which represents in whole or in part a trust asset of a State Rural Rehabilitation Corporation or an asset of the Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lane, Inc., or Dyess Farms, Inc., may be sold on credit to an approved applicant for a Farm Ownership loan when a loan is not required by the purchaser in connection with the sale. Such a sale will be considered as an initial loan and will be made on terms similar to and in a manner consistent with the provisions for making initial Farm Ownership loans.

(ii) *Sale on credit when a loan is required.* When a Farm Ownership direct or insured loan is required by the purchaser for repairs to, or improvement or enlargement of, an acquired farm, the loan will be considered as a subsequent loan. Only the following classes of farms may be sold on credit simultaneously with approving the loan on terms similar to and in a manner consistent with the provisions for making subsequent Farm Ownership loans:

(a) Acquired farms which represent solely investments of Title I funds.

(b) Farms which were sold in project liquidation on terms in accordance with Title I and subsequently reacquired by Government, provided no part of the investment represents assets administered in trust for a State Rural Rehabilitation Corporation.

(iii) *Sale for cash through loan to purchaser.* Each acquired farm which represents a trust asset of a State Rural Rehabilitation Corporation or an asset of the Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lane, Inc., or Dyess Farms, Inc., and each project liquidation acquired farm which represents a joint investment of Government funds and State Rural Rehabilitation Corporation funds will be sold for cash and a Farm Ownership direct or insured loan may be made for acquisition, regardless of whether additional amounts are needed for repairs, improvements, or enlargement, in connection with the following types of acquired farms, the loan will include funds for the purchase as well as the repair, improvement, or enlargement of the farm:

(a) Farms which, before acquisition, represented security for Farm Development loans (including former Farm and Home Improvement and Special Real Estate loans) made from funds available for Loans, Grants and Rural Rehabilitation.

(b) Farms which represented a project liquidation unit sold not pursuant to Title I.

(c) Farms which were acquired by foreclosure or deed in lieu of foreclosure of mortgages or deeds of trust assigned to the Government by a defense relocation corporation or a land leasing and land purchasing association.

(7) *Disposal of farms outside the Farm Ownership program.* Acquired farms, or parts thereof, determined to be not suitable for Title I purposes and suitable farms which cannot be sold to an eligible purchaser within a reasonable time will be sold as expeditiously as possible outside the program by the Farmers Home Administration unless special reasons require their transfer to appropriate Government agencies for disposition under the Surplus Property Act of 1944, as amended. Farms, or parts thereof, which at the time of acquisition are determined not to be suitable for Title I purposes will in no event be held by Farmers Home Administration longer than eighteen months from the date of acquisition.

(i) *Sale by the Farmers Home Administration.* The State Director will instruct the County Supervisor with respect to functions to be performed in connection with the disposal of such farms. The State Director is authorized to sell such farms at public or private sale to any individual at the best price obtainable, after public notice. The sale may be either for cash or on terms of at least twenty percent (20%) cash with the balance secured by a first mortgage or deed of trust on the property and payable in equal annual installments within five years with interest at five percent (5%) on the unpaid principal payable annually. The procedure prescribed in § 387.36 will be observed in carrying out the sales of farms under this subparagraph.

(ii) *Reporting farms for transfer as surplus.* When the State Director is of the opinion that it is to the Government's interest that a farm be transferred for sale by the appropriate disposal agency of the Government rather than for it to be sold by the Farmers Home Administration, he will submit his recommendation to the National Office with full legal description and other pertinent information regarding the farm.

(8) *General matters pertaining to the sale of acquired farms.* The following general provisions will apply in connection with the sale of acquired farms:

(i) *Type of deed form.* Conveyances will be made by deed without warranty and will be executed by the State Director. If legally possible, and the sale is to be made within the Farm Ownership program, the deed should create an estate with the right of survivorship. All minerals or mineral rights of the Government will be conveyed to the purchaser.

(ii) *Abstracts of title.* Abstracts of title held by the Government which cover only the land involved in a particular sale may be sold with the farm. When the sale is on credit terms or a loan is made in connection with the sale, the abstract will be retained by the Government until the security instruments securing the credit sale or loan are fully satisfied.

(iii) *Sales expense.* No expenses incident to the sale, such as revenue stamps, recording of mortgage, intangible taxes, or title insurance when required, will be borne by the Government.

(iv) *Title clearance.* Title clearance for farms suitable for Title I purposes

will be effected in accordance with the applicable provisions of § 366.61 of this chapter.

(v) *Proration of rent.* When an acquired farm, or part thereof, is under lease which is not to be canceled at the time of sale, and the rent has not become due before the sale is made, and the lease does not contain provisions governing the proration of rent in the event of sale of the farm, the State Director will arrange for any prorated distribution of rent between the Government and the purchaser which is found by the State Director to be equitable and not detrimental to the financial interest of the Government.

(d) *County Office management and sales routine.* The State Director will furnish the County Supervisor with a copy of Form FHA-412, "Advice of Mortgaged Real Estate Acquired," covering each farm located within his jurisdiction to which the Government has acquired title. (See § 387.33.)

(1) *County Office management functions with respect to acquired farms.* The State Director will issue specific instructions to the County Supervisor with respect to management functions required of him in connection with each acquired farm prior to its sale or other disposition.

(2) *Leasing of acquired farms.* When the State Director authorizes the leasing of an acquired farm, he will advise the County Supervisor of the terms and conditions under which the farm will be leased. Upon receipt of such advice, the County Supervisor will prepare Form FHA-435, "Lease of Farm," in an original and four copies. The lessee will be required to sign the original and two copies.

(3) *Caretaker arrangements on acquired farms.* If the State Director authorizes a caretaker arrangement, he will advise the County Supervisor of the terms and conditions thereof. Form FHA-529, "Caretaker's Agreement for Farm Ownership Farm," will be prepared in an original and two copies.

(4) *Sale of acquired farms within Farm Ownership program.* The State Director will inform the County supervisor of the selling price of each acquired farm suitable for Title I purposes and the method, or methods (if more than one method is applicable) under which the sale may be consummated (see paragraph (c) (6) of this section). The State Director will inform the County Supervisor of any requirements, in addition to those prescribed herein, to be met in the processing of the docket in connection with the sale of a particular farm. An applicant will be selected in accordance with §§ 465.1, 465.2, and 465.3 of this title, with preference accorded to veterans. An application to purchase will be processed in the same manner as an application for an initial direct Farm Ownership loan as prescribed in § 367.1 of this chapter, with the following modifications in form requirements:

(i) *Sale on credit where no loan is required.* Form FHA-188, "Option for Purchase of Farm," and Form FHA-5, "Loan Voucher," will be omitted from the docket. Form FHA-643, "Farm Development Plan," will also be omitted,

unless the purchaser will expend his own funds for development, or the State Director requests that the Form be included.

(a) The following statement will be inserted on the original and all copies of Form FHA-668, "Loan Agreement and Request for Funds," in any space above the signatures of the applicant and his wife, before the form is signed by them:

I hereby certify that I am unable to obtain credit sufficient in amount to finance our actual needs at rates (but not exceeding the rate of five percent per annum) and terms prevailing in or near the community in which I reside.

(b) One of the following statements will be added to the bottom of the reverse side of the original and all copies of Form FHA-668:

The total indebtedness of \$_____ to be incurred by the applicant under this agreement represents the purchase price of land owned by the Government, under Advice No. _____ dated _____ and sold to the applicant.

The total indebtedness of \$_____ to be incurred by the applicant under this agreement, plus \$_____ down payment, represents the purchase price of land owned by the Government, under Advice No. _____ dated _____ and sold to the applicant.

(c) The following statement will be inserted in Item 9 (A) of Form FHA-491, "County Committee Certification," following the words "to enable him to":

Acquire the farm, it being understood that the amount of the loan represents the purchase price (or a part of the purchase price) of said farm which is herewith recommended for sale by the Government to the applicant in a manner consistent with the provisions of Title I.

(d) The note and, where legally permissible, the deed and mortgage will be dated as of the date of approval of Form FHA-668 by the State Director.

(ii) *Sale on credit when a loan is required.* When a credit sale and loan are to be accomplished at the same time, Form FHA-190, "Promissory Note," will evidence the total amount of the debt (purchase price of unit plus amount of cash loan). Where legally permissible, the deed, note, and mortgage will be dated the date of the loan check. All forms required in connection with the processing of the loan, as prescribed in § 367.3 of this chapter, will be included in the docket, except that any form required in complying with § 367.1 of this chapter will not be duplicated.

(a) The following statement will be inserted on the original and all copies of Form FHA-668 in any space above the signatures of the applicant and his wife, before the form is signed by them:

I hereby certify that I am unable to obtain credit sufficient in amount to finance our actual needs at rates (but not exceeding the rate of five percent per annum) and terms prevailing in or near the community in which I reside.

(b) The following statement will be added to the bottom of the reverse side of the original and all copies of Form FHA-668:

The total indebtedness of \$_____ to be incurred by the applicant under this agree-

ment represents the purchase price of \$_____ of land owned by the Government under Advice No. _____ dated _____ and to be sold to the applicant, plus the sum of \$_____ in cash to be loaned to the applicant by the United States.

(c) The following statement will be added in Item 9 (A) of Form FHA-491, "County Committee Certification," after the appropriate statutory purposes of the loan have been inserted:

* * * It being understood that _____ dollars of such "Title I loan" represents the purchase price of said farm, which is herewith recommended for sale by the Government to the applicant in a manner consistent with the provisions of said Title I.

§ 387.36 *Farm Ownership program; sale of farms not suitable for purposes of Title I—(a) General.* This section prescribes supplemental authorities, policies, and procedures for the sale outside the Farm Ownership program by the Farmers Home Administration of acquired farms, or parts thereof, which have been determined to be not suitable for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended. (See § 387.35).

(b) *Delegation of authority.* Subject to the policies and procedures contained herein and in § 387.35, the following additional authorities with respect to acquired farms, or parts thereof, determined not to be suitable for the purposes of Title I, are hereby delegated to the State Director:

(1) To procure, and approve vouchers in payment of, appraisals of such farms, or parts thereof. This authority will not be redelegated.

(2) To invite, accept, or reject bids and negotiate for the sale of such farms, or parts thereof. The State Director will not redelegate the authority to accept or reject bids, but may redelegate the authority to invite bids and to undertake preliminary negotiations for the sale of such farms, or parts thereof.

(c) *Terms and conditions of sale.* Each sale of real property, pursuant to this section, will be subject to the following terms and conditions:

(1) *Eligible purchasers.* A sale may be made to any available purchaser except to a private corporation. Farmers Home Administration employees are eligible to purchase such farms, or parts thereof, only when the sale is based upon competitive bids: *Provided*, That no sale shall be made, either directly or indirectly, to an employee who was in any way connected with its declaration as surplus or who was formerly accountable for the property or connected in any way with the negotiations for the sale thereof. This restriction applies to State and County Committeemen. No sale may be made to persons related to ineligible employees, including Committeemen, within the third degree of consanguinity or affinity, without the prior approval of the Administrator.

(2) *Mineral rights.* All minerals and mineral rights, title to which is vested in the Government, will be included in the sale of the property.

(3) *Sale of abstracts.* Abstracts of title or other evidence of title held by the Government, which cover only the land

involved in a particular sale, may be sold with the property, provided that when the sale is on credit such abstract(s) or other evidence of title will be retained by the Government until the purchase price is fully paid.

(4) *Terms.* The property shall be sold for the best price obtainable after public notice is given. The property should be sold preferably for cash, but may be sold on credit, secured by the property, when a purchaser for cash is not available, and will be sold on credit when a greater recovery can be obtained by credit sale (see paragraph (h) (2) of this section). In credit sales, an initial cash down payment of not less than twenty percent (20%) of the sale price must be made upon each sale, and the balance of the sale price must be paid in equal annual installments payable over a period of not to exceed five (5) years, with interest on the unpaid balance at the rate of five per cent (5%) payable annually.

(d) *Plan of sale.* The State Director will, in order to secure the best price obtainable, develop a plan of sale for each property to be sold. In developing such a plan, consideration should be given to (1) subdivision and offering the property in units; (2) sale of land and marketable timber separately in order to obtain a better price than would be secured from the sale of the land with the timber thereon; and (3) determination of the terms on which bids will be invited.

(e) *Request for allotment to defray sales costs.* In the event that it is necessary to procure an outside appraisal report or formally advertise the property in newspapers, the State Director will request the establishment of an allotment of funds for such purposes in connection with the sale of each farm. Estimates for the cost of maintenance or repair work may be included when in the opinion of the State Director it will be impossible to sell the property for its reasonable value without making such expenditures, and the repairs or maintenance will add more to the fair market value of the property than the cost of the repairs or maintenance. Each request for an allotment will show the type of asset or security represented by the property.

(f) *Public notice.* The State Director will arrange for exposing the property to the market and for giving public notice of sale. The manner and form of giving public notice will be approved as to legal sufficiency by the representative of the Office of the Solicitor before release. If public notice and efforts to negotiate a sale of the property should fail to produce a reasonable offer or bid, public notice will again be given if, in the opinion of the State Director, such notice is likely to create additional interest.

(1) *When the value is \$2,500 or less.* When the fair market value of the property, as determined by the State Director, does not exceed \$2,500, public notice will be given by the State Director either by having appropriate notice of sale posted in not less than three public places (e. g., courthouse, postoffice building, and so forth) in the area where the property is located, or by publishing such notice of sale in the newspapers in ac-

cordance with the procedure for placing of advertising. When the State Director deems it desirable, in the interest of adequately exposing the property to the market, he may give such public notice by both posting the notices of sale and publishing them in the newspapers.

(2) *When the value exceeds \$2,500.* When the fair market value of the property, as determined by the State Director, exceeds \$2,500, public notice will be given by advertising the property formally, in sufficient newspapers, periodicals, trade journals, and other publications, and the employment of handbills, posters, and so forth, to expose the property adequately to the market.

(g) *Invitation to submit offer or bid—*

(1) *When value is \$2,500 or less.* When the fair market value of the property, as determined by the State Director, is \$2,500 or less, the sale may be negotiated without sealed bids. After the period specified in the notice of sale has expired, the State Director, or the Farmers Home Administration employee authorized to do so by the State Director, will undertake negotiations for sale of the property with all persons who may be interested. Each designation of an employee to negotiate the sale will be made by the State Director in writing. A written report will be made of all negotiations conducted. When the negotiations are undertaken by the State Director and the best offer is acceptable to him, the offer will be reduced to writing on Form FHA-216, "Invitation, Bid, and Acceptance," in an original and four copies. The original and one copy of Form FHA-216 will be signed by the bidder and accompanied by the amount of the required deposit in the form of a certified check, money order, or cashier's check payable to the Treasurer of the United States. When the negotiations are undertaken by an employee other than the State Director, the best offer obtained, if it is likely to be considered to be acceptable, will likewise be reduced to writing on Form FHA-216, and Form FHA-216 then will be submitted to the State Director together with the deposit and the written report of all negotiations. Before final acceptance of an offer, the State Director will submit Form FHA-216 to the representative of the Office of the Solicitor for review as to legal sufficiency. The applicable procedure outlined in paragraph (h) of this section will be followed with respect to analyzing, accepting, and awarding such offers.

(2) *When the value exceeds \$2,500.* Sealed bids will be invited in connection with the offering of each property when the fair market value, as determined by the State Director, exceeds \$2,500. The State Director will furnish prospective bidders with sufficient copies of Form FHA-216, and with properly addressed envelopes (requiring postage to be paid by the bidder) for transmitting bids, and will request conformity with the detailed instructions contained in Form FHA-216 for the preparation and submission of bids. The State Director will sign section I of Form FHA-216 as issuing officer.

(3) *Preparation of invitation to bid.*

(i) Form FHA-216 provides optional pay-

ment plans. If the State Director determines to invite bids on an all cash bid only, payment plan "A" will be made applicable by deleting payment plan "B" and paragraph "C" of section IV of Form FHA-216.

(ii) If the State Director determines that offers will be acceptable on either payment plan "A" or payment plan "B", he will make the determination as to the percentage of the bid that will be required as an initial cash payment, which in no case will be less than twenty percent (20%), and fill in the blank in line 1 of payment plan "B". The State Director also will determine the period within which the balance of the sale price is to be paid, which period must not exceed five (5) years. The terms of payment of the balance of the sale price, together with the interest rate of five percent (5%) per annum, will be filled in on the two blank lines under payment plan "B".

(iii) The State Director will determine the percentage of the bid to be required as a deposit, and will fill in the blank space in paragraph A 1 of section IV of Form FHA-216. The amount of deposit ordinarily should be ten per cent (10%) of the total bid, but in no case shall it be less than five per cent (5%).

(iv) Whenever practicable, taxes or payments in lieu of taxes, rents, or receipts from the operation of the property for the current year will be prorated as of the date of delivery of the deed, and, when so prorated, "date of delivery of deed" will be inserted in the blank space in paragraph A 7 of section IV of Form FHA-216. When the property is under lease for the crop year and is sold during the crop year in two or more tracts, or when existing leases are on a share-of-the-crop basis and it is impracticable for these or other reasons to prorate rent as of the date of delivery of the deed, the State Director will insert a definite future date to which the Government will continue to receive all rents, and paragraph A 7 of section IV will be modified by making separate provision for proration of rents or other receipts, as distinguished from taxes or payments in lieu of taxes.

(v) A legal description of the property will be prepared and attached to Form FHA-216 as "Exhibit A". When applicable, the following sentence will be inserted under the legal description: "The above described land will be sold subject to the following specific conditions, reservations, and exceptions:". Following this, any specific conditions, reservations, and exceptions, such as easements, leases, back taxes, and so forth, will be listed.

(h) *Receiving, custody, and acceptance of bids.* The State Director will indicate the date and hour bids are received in the State Office by placing this information on all envelopes containing bids. Bids received prior to the hour and date stipulated in the advertisement for the bid opening will be kept in a locked container until the time fixed for opening. The State Director will have sole custody of the key at all times. Bids may be withdrawn or modified by written or telegraphic request received from the bidders prior to the time fixed for opening bids,

but no bids may be withdrawn or modified after the time fixed for opening.

(1) *Opening of bids.* (i) All bids received will be opened at the hour stipulated in the advertisement. The State Director and at least three Farmers Home Administration employees will be present at the opening. All other interested persons who may desire to attend also may be present. The State Director will designate a secretary who will record the date and hour the bid opening began, the names of the Farmers Home Administration employees present, and tabulate information with respect to each bid as it is opened.

(ii) When a bid is not accompanied by certified check, money order, or cashier's check, payable to the Treasurer of the United States, in an amount at least equal to the amount of deposit required in Form FHA-216, the bid will be disqualified, except that when such bid is the high bid and is otherwise acceptable, the bidder will be requested to make the required deposit within a stipulated period of time. If the bidder does not comply with this request, the bid will likewise be disqualified.

(2) *Analysis of bids.* In analyzing bids as to acceptability, the highest qualified bid shall be the determining factor without regard to whether the bid is under payment plan "A" or payment plan "B". That is, a bid under payment "B" must be accepted if it is higher than any bid under payment plan "A", or vice versa.

(3) *Acceptance of bids.* When a bid exceeds \$12,000, the State Director shall obtain the prior approval of the National Office before accepting or rejecting the bid. The request for approval submitted to the National Office will include (i) the information tabulated at the opening with respect to each bid, (ii) a copy of Form(s) FHA-736 made on the property, (iii) a report on the type and extent of the advertisement of sale of the property, (iv) a copy of the advertisement, (v) the originals of Forms FHA-216 received from the three highest bidders, and (vi) the recommendations of the State Director.

(1) *Manner of acceptance.* The State Director will accomplish acceptance of a bid by signing in the "Acceptance" block in section III on the original and one copy of Form FHA-216. The signed copy of the accepted bid Form will be mailed to the successful bidder on the acceptance date by registered mail with return receipt requested.

(ii) *When a bid is accepted immediately.* If a bid is accepted immediately, the State Director will transmit the deposit of the successful bidder to the Area Finance Office for scheduling into the Special Deposits Account of the United States Treasury Regional Disbursing Office, and the deposits of the unsuccessful bidders will be returned promptly by registered mail with a covering letter of explanation.

(iii) *When a bid is not accepted immediately.* If a bid is not accepted immediately, the State Director will transmit the deposits of the three highest bidders to the Area Finance Office for scheduling into the Special Deposits Account of the United States Treasury Re-

glonal Disbursing Office, where they will be held until final action is taken. All deposits of bidders other than the deposits of the three highest bidders will be returned promptly by registered mail with a covering letter of explanation. If one of the three highest bids is later accepted, the State Director will request the Area Finance Manager to refund the deposits of the other bidders. If all bids are rejected, the State Director will request the Area Finance Manager to refund the deposits of all three bidders. At the time the State Director requests the Area Finance Manager to refund deposits, the State Director will notify each unsuccessful bidder in writing that his bid has been rejected and that the Area Finance Manager has been requested to refund the deposit.

(4) *Award to successful bidder.* Upon acceptance of a bid by the State Director, Standard Form No. 1036, "Statement and Certificate of Award," will be prepared in an original and two conformed copies. The original will be signed by the State Director. In the space below the "Certificate" will be shown the name and address of the successful bidder, and the following statement: "Award was made pursuant to authority contained in sections 43 (d) and 51 of the Bankhead-Jones Farm Tenant Act, as amended by Public Law 731, 79th Congress (60 Stat. 1062)."

(5) *Negotiated sale.* In the event that all bids are rejected or no bids are received, the State Director may negotiate immediately with the bidders and other prospective purchasers, and consummate the sale of the property, when the negotiated offer is less than \$12,000, at the best price obtainable without further advertising, provided that there are no indications that readvertising will create additional interest and result in a higher bid. When the negotiated offer is \$12,000 or more, the State Director shall obtain the prior approval of the National Office in the same manner as provided in subparagraph (3) of this paragraph. Any negotiated sale shall be on terms not less favorable, and at a price not lower, than the best terms and highest price offered as a result of public notice.

(i) *Closing of sale and routing of documents.* Promptly after acceptance of the bid, the State Director will conform three copies of Form FHA-216 and will forward to the representative of the Office of the Solicitor the originals of Form FHA-216 and Standard Form No. 1036 and such other pertinent material as may be necessary to close the sale. He will request the representative of the Office of the Solicitor to prepare the necessary legal instruments and closing instructions. The quitclaim deed, promissory note and security instrument will conform as nearly as possible to the type used in closing ordinary business transactions involving the sale of land in the locality where the property is located. The representative of the Office of the Solicitor will return the originals of Form FHA-216 and Standard Form No. 1036 and other pertinent material to the State Director with the closing instruments and instructions. After a sale on credit is closed, all documents executed in complying with the closing instructions will

be forwarded to the representative of the Office of the Solicitor who will return the documents to the State Director with an opinion as to whether the sale has been properly closed.

(1) *Notification to tax officials and lessees.* After the deed has been delivered to the purchaser, the State Director immediately will send notice of the sale to the proper tax officials by registered mail, giving the name and address of the purchaser, the date of delivery of the deed, a description of the land, and stating that the United States of America no longer holds title to the property. If the property is subject to an oil, gas, or mineral lease, the State Director will notify the lessee(s) in the same manner.

(2) *Scheduling of proceeds.* All payments received (whether as deposit, down payment, installment payment, or full payment) on the purchase price of the property under the terms of the accepted bid will be scheduled by the collecting official to the Area Finance Office. No receipt will be issued on Form FHA-37, "Receipt for Payment," for any part of the down payment, or for full cash payment at the time of closing. However, Form FHA-37 will be issued in receipting payments on that part of the purchase price evidenced by a promissory note.

Issued the 23d day of September 1948.

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

Approved: October 19, 1948.

A. J. LOVELAND,
Acting Secretary of Agriculture.
[F. R. Doc. 48-9330; Filed, Oct. 21, 1948;
8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

MISCELLANEOUS AMENDMENTS

Since June 1, 1938, the effective date of the original codification of Title 7, Chapter VII, of the Code of Federal Regulations, there have been numerous amendments and additions to the Chapter, as well as changes in the organization of the central and field offices of the Department of Agriculture. Certain of the material of the Chapter is reprinted herein with such revision and rearrangement as is necessary to reflect the organizational changes and to facilitate use of the Chapter. No changes in substance have been made. Therefore notice and public procedure under the Administrative Procedure Act are unnecessary.

This material was prepared by the Division of the Federal Register with the concurrence of the Secretary of Agriculture, who has caused the contents of the reprint to be examined for completeness and accuracy.

Subchapter A—Agricultural Conservation

PART 701—NATIONAL AGRICULTURAL CONSERVATION PROGRAM

Section 734.1 is redesignated as § 701.0 and the headnote is amended, as set forth below:

§ 701.0 *Fair prices for conservation materials and services acquired by means of purchase orders—(a) Delegation to the Administrator, Production and Marketing Administration.* The Administrator, Production and Marketing Administration, shall designate the conservation materials and services which may be furnished by means of purchase orders in connection with the agricultural conservation program, the persons who shall establish the fair prices, and the method of making such determinations: *Provided, however,* That any such determination shall be made in accordance with the provisions of paragraphs (b), (c), (d), and (e) of this section, and shall be subject to such review as may be required by any person who has delegated his authority to establish fair prices.

(b) *Conservation materials.* A fair price shall be the price at which a vendor agrees to furnish the material at a given time under a given set of conditions, providing it is determined by the person authorized to establish fair prices that the price is not excessive in relation to:

(1) The prices which farmers are currently paying for the same or similar material under the same or similar conditions, and

(2) The prices at which farmers could obtain the same material through other than local channels, and

(3) The actual or estimated cost to the vendor and a reasonable margin for profit.

(c) *Services.* A fair price shall be the price at which a vendor equipped to perform a service agrees to furnish it at a given time and under a given set of conditions, providing it is determined by the person authorized to establish fair prices that the price is not excessive in relation to:

(1) The prices which farmers are currently paying for the same or similar service under the same or similar conditions, and

(2) The actual or estimated cost to the vendor and a reasonable margin for profit.

(d) *Defective materials and services.* A material or service shall be deemed not to have been furnished at the fair price if it is determined that the material or service does not meet quality specifications. In such case the material or service may be rejected and no payment made therefor by the Government. At the option of the Production and Marketing Administration such materials or services may be accepted subject to a deduction equal to the difference between the fair price of the material or service of the quality specified and the value of the material or service furnished.

(e) *Inspection and analysis.* Materials and services shall be inspected and samples taken in accordance with instructions issued by the Administrator, Production and Marketing Administration: *Provided, however,* That the inspection and analysis controls exercised by State Regulatory Authorities may be deemed a sufficient protection to the Government as to the quality standards of any material over which such authority is exercised: *Provided, further* That, this shall not prevent the taking of addi-

tional samples nor shall it satisfy the responsibility of the Government for the making of separate inspections of materials in any case where such further action is necessary to adequately protect the interests of the Government. (55 Stat. 257; 16 U. S. C. 590 h (b))

Subchapter B—Commodity Marketing Quotas

PART 712—COMMODITY LOAN REGULATIONS

Part 712 is deleted inasmuch as such provisions are covered in the individual crop Price Support Program Bulletins being printed annually in the Federal Register under Title 6, Chapter II.

PART 714—REFUNDS OF PENALTIES ERRONEOUSLY, ILLEGALLY, OR WRONGFULLY COLLECTED WITH RESPECT TO MARKETING IN EXCESS OF MARKETING QUOTAS

Part 714 is amended to read as follows:

SUBPART—TOBACCO MARKETING QUOTA PROVISIONS

- Sec.
- 714.1 Who may claim.
 - 714.2 Manner of filing.
 - 714.3 Time of filing.
 - 714.4 Statement of claim.
 - 714.5 Certificate of operator.
 - 714.6 Designation of trustee and declaration of trust.
 - 714.7 Certification by county committee.
 - 714.8 Examination of claim.
 - 714.9 Certification of claim.
 - 714.10 Instructions and forms.
 - 714.11 Gender and plural meaning of terms.
 - 714.12 Definitions.

SUBPART—COTTON MARKETING QUOTA PROVISIONS

- 714.21 Who may claim.
- 714.22 Execution and filing of claim.
- 714.23 Trustee.
- 714.24 Certification by county committee.
- 714.25 Examination of claim.
- 714.26 Certification of claim.
- 714.27 Instructions and forms.
- 714.28 Definitions.

SUBPART—TOBACCO MARKETING QUOTA PROVISIONS

AUTHORITY: §§ 714.1 to 714.12, inclusive, issued under sec. 372 (c), 52 Stat. 204; 7 U. S. C. 1372 (c).

§ 714.1 *Who may claim.* Claim for refund of any sum of money erroneously, illegally, or wrongfully collected as penalty with respect to marketing of tobacco may be made by:

(a) Any person who was entitled to share in the price paid to the producer with respect to any sale from which a deduction was made, pursuant to section 314 of the Act (52 Stat. 48; 7 U. S. C. 1314), and who bore the burden of such deduction; or

(b) Any person who paid such penalty on any sale and who did not deduct from the price paid to the producer in connection with such sale the amount thereof pursuant to section 314 of the Act.

If under either paragraphs (a) or (b) above more than one person is entitled to file a claim with respect to a sale, then a joint claim may be filed by all such persons.

§ 714.2 *Manner of filing.* Claim for refund shall be filed in the county office on a form prescribed by the Director, Tobacco Branch, Production and Mar-

keting Administration, United States Department of Agriculture.

§ 714.3 *Time of filing.* Any such claim must be filed within two years after the date when payment to the Secretary of the penalty with respect to which claim is made which shall be deemed to be the date when the payment of such penalty was deposited in the general fund of the Treasury as shown by the date of the certificate of deposit. (52 Stat. 204, 54 Stat. 728; 7 U. S. C. 1372 (c))

§ 714.4 *Statement of claim.* Full and complete information shall be given concerning the sale of tobacco with respect to which claim is made; the names, addresses, and proportionate shares in the amount claimed, of all persons who had an interest in the purchase price paid for the tobacco and who bore the burden of such penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. There should be attached to the claim all pertinent documents, such as warehouse bill, marketing card, etc.

§ 714.5 *Certificate of operator.* Where the claim is made by a producer other than an operator, the certificate of operator must be executed by the person who was the operator of the farm at the time of the sale of the tobacco with respect to which claim was made.

§ 714.6 *Designation of trustee and declaration of trust.* Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, such trustee shall be appointed and in the event of such appointment, the person so designated as trustee shall execute the declaration of trust.

§ 714.7 *Certification by county committee.* Immediately upon receipt of a claim, the county committee shall record on the face thereof the date of its receipt. If it determines on the basis of information available to it that the data and representations on the claim are correct, one of its members shall on behalf of the committee so certify in the place provided therefor. The committee shall, in any event, forthwith transmit the claim to the State committee.

§ 714.8 *Examination of claim.* The State committee shall examine the claim and make such investigation as may be necessary. After consideration of the claim, the State committee, or someone designated by it in writing, shall endorse thereon the amount recommended for payment stating the reasons therefor and shall submit the claim for payment. If the claim is not recommended or approved for payment, the State committee shall notify the claimant that his claim has been rejected.

§ 714.9 *Certification of claim.* The Director, Tobacco Branch, for and on behalf of the Secretary shall certify on "Public Voucher for Refunds of Marketing Penalties" (Form 38-AAA-11) and on "Public Voucher for Refunds of Marketing Penalties—continuation sheet" (Form 38-AAA-10) to the Secretary of the Treasury of the United States for

payment all such claims for refunds as have been approved.

§ 714.10 *Instructions and forms.* The Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, shall cause to be prepared and issued such instructions and forms as may be required to carry out the regulations in this subpart.

§ 714.11 *Gender and plural meaning of terms.* Any term used in the masculine or in the singular shall also be considered as applied in the feminine or neuter gender, or in the plural or singular person, wherever the context or application of such terms shall require.

§ 714.12 *Definitions.* As used in this subpart and in all forms and documents in connection therewith, unless the context of the subject matter otherwise requires:

(a) "Act" means the Agricultural Adjustment Act of 1938 (52 Stat. 31; 7 U. S. C., 1281-1407, 16 U. S. C., 590h, 590o) and any amendments thereto.

(b) "Secretary" means the Secretary of Agriculture of the United States.

(c) "Regulations" means those regulations pertaining to refund of penalty, erroneously, illegally or wrongfully collected by the Secretary of Agriculture with respect to the marketing of tobacco.

(d) "County committee" means the county committee utilized under the Act.

(e) "County office" means the office of the county committee.

(f) "Farm" means the farm for which the marketing quota was established.

(g) "Operator" means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(h) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer was entitled under the provisions of his agreement relating to the production of tobacco to share in the tobacco marketed from the farm.

(i) "Farm marketing quota or quota" means a tobacco marketing quota established for a farm under Title III of the Act.

(j) "Sale" means the disposition subject to penalty of one or more lots of tobacco covered by one memorandum of sale.

(k) "Memorandum of sale" means the form or forms prescribed by the Secretary and used in connection with the marketing of tobacco for the purpose of determining whether or not such marketing was subject to penalty.

(l) "Claimant" means any person who makes claim for a refund of penalty, in accordance with this subpart.

(m) "Claim" means a request for refund of penalty.

(n) "Penalty" means an amount of money collected by the Secretary from any person with respect to the marketing of tobacco.

(o) "Person" means an individual partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State, or of the Federal Government.

(p) "State committee" means the group of persons designated as the State

committee of the Production and Marketing Administration charged with the responsibility of administering production and marketing administration programs within the State.

SUBPART—COTTON MARKETING QUOTA PROVISIONS

AUTHORITY: §§ 714.21 to 714.28, inclusive, issued under Sec. 372 (c), 52 Stat. 204, sec. 6, 54 Stat. 728; 7 U. S. C. 1372 (c).

§ 714.21 *Who may claim.* Claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to any cotton and paid to the Secretary of Agriculture may be made by:

(a) Any person who, as a person entitled to share in the price or consideration received by the producer with respect to any marketing of cotton from which a deduction was made in order to provide or allow for payment of the penalty, bears the whole or a part of the burden of such deduction;

(b) Any person who, as a person entitled to share in the cotton or the proceeds thereof, paid the whole or any part of the penalty thereon and has not been reimbursed therefor in any manner;

(c) Any person who, as a person, entitled to share in the cotton or the proceeds thereof, bears the burden of the penalty because he has reimbursed the person who paid such penalty;

(d) Any person who, as a buyer or transferee of the cotton, paid the whole or any part of the penalty and was not under a duty to collect or pay such penalty and has not been reimbursed therefor by the producer or otherwise;

(e) Any person who paid the whole or a part of the penalty as a surety on a bond given to secure the payment of penalties and has not been reimbursed by his principal or otherwise; or

(f) Any person who paid the whole or any part of the sum paid as a penalty with respect to any cotton included in a transaction which in fact was not a marketing of such cotton and has not been reimbursed therefor.

In any case where more than one person is entitled to file a claim, a joint claim may be filed by all such persons, but if separate claims are filed by them or any of them no such claim shall be approved until the interest of every person is determined.

§ 714.22 *Execution and filing of claim.* Claim for refund shall be filed in the county office within 2 years after the date when payment was made to the Secretary of Agriculture of the penalty with respect to which claim is made, which shall be deemed to be the date when the payment of such penalty was deposited in the general fund of the Treasury as shown by the date of the certificate of deposit. The claim shall show fully the facts constituting the basis of the claim; the name and address of and the amount claimed by every person who bore or bears any part or all of the burden of such penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. It shall be the responsibility of the county committee to determine that any person who executes a claim as

agent or fiduciary is properly authorized to act in such capacity.

§ 714.23 *Trustee.* Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and distribute any payment to be made to them under the claim, such trustee shall be appointed on Form No. AAA-381 or -382, and the person so designated shall execute the Acceptance of Trust on said form.

§ 714.24 *Certification by county committee.* Immediately upon receipt of a claim the county committee shall record on the face thereof in the space provided the date of its receipt. The committee shall determine on the basis of all information available to it whether the data and representations on the claim are correct and approve or disapprove it accordingly; if approved, one of its members shall on behalf of the committee certify such finding in the space provided; and if disapproved, a statement showing such disapproval and the reasons therefor shall be attached to the claim and signed by one of its members on behalf of the committee. Whether it approves or disapproves the claim, the committee shall promptly transmit it to the State committee.

§ 714.25 *Examination of claim.* The State committee or an authorized official shall examine the claim and make such investigation as may be necessary. Approval shall be indicated by a representative of the State committee or an authorized official by affixing his signature to the claim. If the claim is not approved, the claimant shall be notified that his claim has been rejected.

§ 714.26 *Certification of claim.* An officer or employee authorized to certify vouchers for payment of applications for agricultural conservation payments pursuant to sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148; 16 U. S. C. 590 (g) to 590 (q), as amended), shall, for and on behalf of the Secretary of Agriculture, certify to the Secretary of the Treasury of the United States for payment all claims for refund which have been approved by the State committee.

§ 714.27 *Instructions and forms.* The Director of the Cotton Branch, PMA, shall cause to be prepared and issued with his approval such instructions and forms as may be required to carry out §§ 714.21-714.28.

§ 714.28 *Definitions.* As used in this subpart and in all forms and documents in connection therewith, unless the context or the subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and the neuter genders and the singular the plural person:

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) "Regulations" means the regulations in this subpart.

(c) "County committee" means the respective county agricultural conservation committee utilized under the Act.

(d) "County office" means the office of the county committee.

(e) "State office" means the central office of the Production and Marketing Administration for the State.

(f) "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(g) "Claim" means a request for refund of penalty.

(h) "Claimant" means any person who makes claim for a refund of penalty.

(i) "Penalty" means an amount of money collected from or on account of any person with respect to cotton in the administration of the Act and paid to the Secretary of Agriculture and covered into the general fund of the Treasury of the United States, as provided in section 372 (b) of the Act.

(j) "Farm marketing quota" or "quota" means the cotton marketing quota established under Title III of the Act for the farm for the marketing year with respect to which the sum collected as a penalty involved in the claim was paid.

(k) "Person" means an individual, partnership, firm, corporation, joint-stock company, association, trust, or estate, or any agency of a State Government or the Federal Government.

(l) "Farm" means the farm for which the marketing quota involved in the claim was established.

(m) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer, was entitled under the terms of his tenure or rental or cropping agreement relating to the production of cotton to share in any of the cotton produced on or marketed from the farm.

PART 715—ADVANCES TO PERSONS TO ENABLE THEM TO OBTAIN INSURANCE FROM THE FEDERAL CROP INSURANCE CORPORATION

At the time the regulations in Part 715 were approved, payments were being made under the Agricultural Conservation Program with respect to allotment crops. By keeping his acreages within his acreage allotments a farmer generally could earn sufficient payment to cover the crop insurance premium advance made to him.

At the present time payments under the Agricultural Conservation Program are made only with respect to soil and water conservation practices. Since payments are not made in connection with crops insured by the Federal Crop Insurance Corporation there is no definite assurance that persons applying for insurance will earn payment under the Agricultural Conservation Program from which the full amount of any crop insurance premium advance could be recovered.

No advances of crop insurance premiums are being made under current crop insurance programs. In view of the changed situation a complete restudy of the situation would be necessary before making further premium advances in order to determine whether there is reasonable assurance that the amounts advanced could be set off from payments earned under the Agricultural Conservation Program.

Since it is doubtful that any further crop insurance premium advances can be made without the restudy mentioned above, the regulations in Part 715 are hereby revoked.

PART 716—PAYMENTS OF AMOUNTS DUE PERSONS WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

In § 716.2 (f), § 716.4 (a) and (b), the figure \$500 is amended to read \$1,000.

PART 717—HOLDING OF REFERENDA ON MARKETING QUOTAS

Section 717.1 is amended to read as follows:

§ 717.1 *Definitions.* As used in the regulations in this part and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(a) *Act.* The Agricultural Adjustment Act of 1938 and any amendments thereto heretofore or hereafter made.

(b) *Assistant Administrator* means the Assistant or Acting Assistant Administrator for Production, Production and Marketing Administration, United States Department of Agriculture.

(c) *Secretary of Agriculture.* The Secretary or Acting Secretary of Agriculture of the United States.

(d) *State committee.* The group of persons designated within any State to assist in the administration of production and marketing administration programs within the state.

(e) *County committee.* The committee, within and for a county, utilized under the Soil Conservation and Domestic Allotment Act.

(f) *Person.* An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State or political subdivision thereof or any agency of a State or political subdivision thereof.

Section 717.2 (a) is amended to read as follows:

§ 717.2 *Agencies through which a referendum shall be conducted—(a) Utilization of existing agencies.* The Assistant Administrator shall be in charge of and responsible for conducting each referendum on marketing quotas for any commodity required by the act. Each State committee shall be in charge of and responsible for conducting such referendum in its State. Each county committee shall be responsible for the proper holding of such referendum in its county. It shall be the duty of the assistant administrator and of each committee to conduct each referendum by secret ballot in a fair, unbiased, and impartial manner in accordance with the regulations in this part.

PART 718—SET-OFFS

Part 718 is amended to read as follows:

Sec.

718.0 Purpose.

718.1 Cases in which set-offs applicable.

Sec.

718.2 Conditions of set-offs.

718.3 Priority of set-offs.

718.4 Manner of notice.

718.5 Effect of this part.

AUTHORITY: §§ 718.0 to 718.5, inclusive, issued under 49 Stat. 1116, 1148, 50 Stat. 762, 909, 52 Stat. 45, 65, 70, 819, 60 Stat. 237; 16 U. S. C. 590g-590q, 7 U. S. C. 1131-1137, 1303, 1372 (c), 1401-1407.

§ 718.0 *Purpose.* The purpose of this part is to state the conditions under which certain debts of persons owing to the Government of the United States on account of the indebtedness due and unpaid to any department, establishment, or independent agency of the Government, any corporation all the stock of which is owned by the United States, or any bureau, administration, or corporation in the Department of Agriculture, will be set off against any payments which may be payable to such persons under any applicable statutes, consistent with protecting the interests of the United States and effectuating the purposes of such statutes.

§ 718.1 *Cases in which set-offs applicable.* Subject to the provisos contained in § 718.2, set-offs shall be made, but limited to, the following cases, except that the chief of any creditor agency within the Department of Agriculture, or his authorized representative, may waive or subordinate the right of the creditor agency to a set-off of all or a part of the indebtedness if he deems such action in the interests of the program administered by such agency:

(a) The debtor has committed a fraud against the United States, or there is evidence establishing material misrepresentation of fact, in securing a loan from the United States, without which fraudulent act or material misrepresentation the loan would not have been made or would have otherwise been made in a smaller amount.

(b) A person is indebted to the Federal Crop Insurance Corporation for any unpaid premium payable to it under the terms of a crop insurance contract or on account of his having received an indemnity payment in excess of that finally determined to be due.

(c) A person who is indebted to the Farmers Home Administration has failed to use the borrowed funds for the purposes specified in the written loan document, or has, in bad faith, disposed of property covered by a mortgage, deed of trust, or lien instrument given to secure the loan.

(d) A person is indebted to the Production and Marketing Administration, or to any other agency of the Department of Agriculture by reason of any payments certified on vouchers or on sight-drafts by the Production and Marketing Administration State Offices or by the County Agricultural Conservation Association, or is indebted for an unpaid marketing quota penalty.

(e) A person is indebted to the Commodity Credit Corporation in connection with a loan or purchase agreement with respect to which there has been failure to comply with the terms.

(f) Any account or renewal thereof arising from the loan operations of the Farmers Home Administration (or pred-

ecessor agency) of Farm Credit Administration (1) becomes finally due on or after July 1, 1939, and (2) has not been finally settled by such creditor agency within a period of two years thereof, and, at the expiration of such two-year period, (i) the debtor is not a client of and does not have a current loan from such creditor agency (except for collection purposes), and (ii) such creditor agency considers a request for set-off in such case to be in the interest of its program.

(g) The United States or a corporation all the stock of which is owned by the United States has secured a judgment against the debtor which remains unsatisfied.

(h) A person is indebted to the Regional Agricultural Credit Corporation of Washington, D. C., on a limited liability advance made in furtherance of food production, and has failed to pay to the corporation, pursuant to written agreement, the amount paid or allowed to him as payments from funds appropriated by section 32 of Public Law No. 320, 74th Congress (49 Stat. 750; 7 U. S. C. 602) under the 1943 Agricultural Conservation Program: *Provided, however,* That any such set-off shall be limited to the amount paid or allowed as aforesaid.

§ 718.2 *Conditions of set-offs.* The following provisos shall apply in making set-offs, except that only paragraph (c) of this section shall apply to the case designated in § 718.1 (d) and paragraph (e) of this section shall not apply to the case designated in § 718.1 (h):

(a) Request for set-off shall be on Form AAA-402, "Request for Set-Off against Agricultural Adjustment Payments," and all the information required by such form must be included. Section II, "Certification," must be signed by an authorized representative of the department, establishment, or independent agency of the Government requesting the set-off. Requests for set-offs by agencies of the Government not within the Department of Agriculture coming within § 718.1 (g) shall be submitted on Form AAA-396, "Request and Certification for Allowance of Set-Off Pursuant to Section 718.1, item (g) of the Order Governing Set-offs against Agricultural Adjustment Payments." Form AAA-393 may also be used by bureaus within the Department to file requests for set-offs coming within § 718.1 (g).

(b) The amount of the indebtedness shall be stated separately as (1) principal and (2) interest (where applicable) computed to the date indicated on the request. If the creditor agency desires that additional interest be computed on the principal, a factor (daily or monthly) shall be furnished for computing such interest. The amount to be set off shall not exceed the principal sum(s) owed by the debtor and the interest charges computed (in accordance with the procedure governing the program under which the indebtedness arose) to the date of preparation of the application for payment against which the set-off is to be made.

(c) Whenever a set-off is to be effected by means of a direct settlement, the amount of the indebtedness, insofar as this order is concerned, shall be reduced at the time the voucher is transmitted to

the Claims Division of the General Accounting Office by the amount of payment administratively certified subject to deduction.

(d) In no case shall a payment be withheld for the purpose of making a set-off subsequent to the initial administrative certification for payment of the voucher.

(e) In no case shall any department, independent agency, bureau, or administration, other than the Production and Marketing Administration, or corporation all the stock of which is owned by the United States, communicate with any officer or employee of any County Agricultural Conservation Association, or other association, or committee of producers, with a view to securing the set-off, or with a view to the withholding of any check issued pursuant to any of the above-cited acts which may be in, or come into, his or their hands awaiting delivery to the payee: *Provided, however*, That with respect to cases coming within § 718.1 (g) inquiry may be made at the office of the County Agricultural Conservation Association as to whether the judgment-debtor has filed with respect to a particular crop year an intention to participate in one or more of the programs administered by the Production and Marketing Administration.

(f) Forms AAA-396 and AAA-402 executed by bureaus, administrations, or corporations within the Department of Agriculture, shall be filed with the appropriate State offices of the Production and Marketing Administration. Forms AAA-396 and AAA-402 executed by agencies of the Government not within the Department of Agriculture shall be filed with the appropriate State office of the Production and Marketing Administration or with the Assistant Administrator for Production, Production and Marketing Administration.

§ 718.3 *Priority of set-offs.* Irrespective of the time of recordation on the register of indebtedness in the office of the county agricultural conservation association, any claim to the right of set-off made by the Department of Agriculture shall have priority over any claim to such right made by any other department, independent agency, or establishment of the Government, and claims within the Department of Agriculture shall be satisfied in the following order of priority, namely: Production and Marketing Administration, Commodity Credit Corporation, Federal Crop Insurance Corporation, Farmers Home Administration, and Farm Credit Administration.

§ 718.4 *Manner of notice.* The head of any department, independent agency, or establishment of the Government, including any administration or bureau of the Department of Agriculture, desiring that set-offs be made in any cases coming within the terms of this part, shall give written notice to that effect to the Assistant Administrator for Production, Production and Marketing Administration, in order that the necessary procedure may be established and approved by him. The Assistant Administrator for Production is hereby authorized to revise

such existing forms and to issue such new forms and procedures as may be required from time to time for the proper administration of this part.

§ 718.5 *Effect of this part.* This part supersedes the Revised Order Governing Set-Offs entered by the Secretary of Agriculture May 8, 1937 (as revised October 20, 1943).¹

PART 725—BURLEY AND FLUE-CURED TOBACCO

Sections 725.501 and 725.502 are hereby redesignated as §§ 725.1 and 725.2, respectively, and §§ 725.511 through 725.527 are hereby redesignated as §§ 725.11 through 725.27, respectively. All references to these section numbers are changed accordingly.

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

Sections 726.911 through 726.927 are hereby redesignated as §§ 726.11 through 726.27, respectively, and all references to these section numbers are changed accordingly.

PART 734—CONSERVATION MATERIALS AND SERVICE PROGRAM

Part 734 is deleted and § 734.1 is redesignated as § 701.0.

Done at Washington, D. C., this 19th day of October 1948.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 48-9367; Filed, Oct. 21, 1948; 9:40 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter V—Department of the Army

Subchapter B—Claims and Accounts

PART 536—CLAIMS AGAINST THE UNITED STATES

MILITARY PAYMENT CERTIFICATES

Rescind paragraph (a) (1) of § 536.80 and substitute the following in lieu thereof, and add paragraph (a) (2), as follows:

§ 536.80 *Military payment certificates—(a) Use.* * * *
(1) *Areas—(i) Effective March 16, 1948.*

Austria.
Belgium.
France.
Germany.
Italy.
Japan and outlying Islands.
Korea, South of 38° North Latitude.
Ryukyu Islands.
Free Territory of Trieste.

(ii) *Effective March 31, 1948.*

Tripoli.

(2) Philippine pesos will be used for payment to authorized personnel in the Philippine Islands.

¹ Not filed with the Division of the Federal Register.

[DA Cir. 274, Sept. 10, 1948] (Sept. 3, 58 Stat. 921; 50 U. S. C. App. 1705-1707)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 48-9306; Filed, Oct. 21, 1948; 8:48 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 2—ADJUDICATION: VETERANS' CLAIMS

MISCELLANEOUS AMENDMENTS

1. In Part 2, paragraph (a) of § 2.1047 is redesignated as paragraph (a) (1) and a subparagraph is added to be designated (2).

§ 2.1047 *Claims based on attained age.*
(a) * * *

(2) In claims for pension where the age of a widow of a veteran is material (i. e., where the claim is predicated upon service rendered prior to July 16, 1903), her statements of her age will be accepted provided such statements agree with those shown on documents executed by her and filed in the Veterans' Administration prior to the time her age became a factor in determining her entitlement to pension or the rate of her pension. If her statements of age do not agree with those shown on such documents the youngest age will be accepted. In the absence of statements as described or in the event the statements do not agree with information shown on documents of record, proof of the date of birth as outlined in § 2.1046 will be required.

2. A new paragraph is added to § 2.1050 of Part 2 to be designated (h).

§ 2.1050 *Proof of marriage.* * * *

(h) For the purpose of discontinuing compensation or pension payments to a widow or remarried widow, and determining the entitlement of children of the veteran, a statement by the widow or remarried widow setting forth the date of remarriage and her present name shall be accepted; *Provided*, That where there is reason to believe that the remarriage may have occurred at an earlier date, formal proof of the remarriage as outlined in the preceding paragraphs shall be required.

[SEAL] O. W. CLARK,
Executive Assistant Administrator.

[F. R. Doc. 48-9307; Filed, Oct. 21, 1948; 8:48 a. m.]

PART 10—INSURANCE

MISCELLANEOUS AMENDMENTS

1. In Part 10, the title of § 10.3496 is changed, the material appearing thereunder is now designated as paragraph (a), and a new paragraph is added to be lettered (b).

§ 10.3496 *Application for total disability income provision and application for reinstatement thereof.* (a) Application for the total disability income provision under National Service Life In-

surance, authorized by section 602 (v) of the National Service Life Insurance Act of 1940, as amended August 1, 1946, and the report of physical examination should be on such forms as may be prescribed by the Veterans' Administration, but any statement in writing sufficient to identify the applicant and the amount of insurance applied for, together with a satisfactory report of a physical examination and remittance to cover the first monthly premium will be sufficient as an application for the total disability income provision. Total disability insurance with benefits at the rate of \$5 per month will be granted for each \$1,000 of National Service Life Insurance in force in full multiples of \$500, but not to exceed the amount of life insurance, other than extended insurance, in force under the policy at the time of the application, upon compliance with the above requirements: *Provided*, The applicant is in good health: *Provided further*, That in any case in which the applicant while not totally disabled and prior to January 1, 1950, furnishes proof satisfactory to the Administrator that his inability to furnish proof of good health is the result of an injury or disability actually service incurred between October 8, 1940, and September 2, 1945, both dates inclusive, the requirement of proof of good health shall be waived.

(b) A total disability income provision which is lapsed may be reinstated if the insured meets the same requirements as those for reinstatement of the policy to which the total disability income provision is attached; except that in no event shall the requirement of a health statement or other medical evidence be waived in connection with the reinstatement of the total disability income provision.

2. Section 10.3498 is amended to read as follows:

§ 10.3498 *Total disability income provision for National Service Life Insurance authorized by the National Service Life Insurance Act of 1940, as amended August 1, 1946.* The total disability income provision for National Service Life Insurance authorized by the National Service Life Insurance Act of 1940, as amended August 1, 1946, is set forth in VA Form 9-1667, "National Service Life Insurance Total Disability Income Provision."

(Secs. 601-618, 54 Stat. 1008-1014, secs. 1-16, 60 Stat. 781-789; 38 U. S. C. 512d, 801-818)

[SEAL] O. W. CLARK,
Executive Assistant Administrator.

[F. R. Doc. 48-9308; Filed, Oct. 21, 1948;
8:48 a. m.]

TITLE 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 201—GENERAL REGULATIONS

OVERTIME

Pursuant to the authority vested in me by section 6 of the Walsh-Healey Public

Contracts Act (49 Stat. 2036; 41 U. S. C. 35), the second paragraph of § 201.103 is hereby amended to read as follows:

§ 201.103 Overtime. * * *

Until otherwise set by the Secretary of Labor the rate of pay for such overtime shall be one and one-half times the basic hourly rate received by the employee. The basic hourly rate shall be the quotient obtained by dividing the total compensation for the workweek, less overtime premium, by the total number of hours worked for which such compensation is paid.

(49 Stat. 2036; 41 U. S. C. 35)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 15th day of October 1948.

JOHN W. GIBSON,
Acting Secretary of Labor.

[F. R. Doc. 48-9295; Filed, Oct. 21, 1948;
8:46 a. m.]

PART 201—GENERAL REGULATIONS

OVERTIME; COMPUTATION OF BASIC HOURLY RATE

Section 201.103: The following interpretation is adopted pursuant to General Order No. 25 of the Secretary of Labor (29 CFR 1946, Supp. 2.001). This interpretation relates directly to the regulation contained in § 201.103 Overtime, and should be appended thereto.

Computation of basic hourly rate. Where an employee has been compensated entirely by piece rates, the employer has in the past been permitted to elect either of two methods of computing overtime under the Public Contracts Act. Under certain conditions and limitations, (a) he could pay the employee at the piece rate for work performed in straight-time hours, and increase the piece rate by 50 percent for all work performed during overtime hours in the workweek; or (b) he could divide the total piece-rate earnings for the workweek by the number of hours worked for which such earnings were paid in order to obtain an average hourly rate, and pay the employee 50 percent of that rate for each overtime hour worked, in addition to his straight-time compensation for all hours worked in the workweek.

Similarly, where in a single workweek an employee has performed different types of work calling for different rates of pay, the employer has in the past been permitted an election as to the method of computing overtime compensation. Under certain conditions, he could elect to compute overtime compensation at time and one-half based (a) on the rate applicable to the work performed during the overtime hours or (b) on the average hourly rate. (See Rulings and Interpretations No. 3, section 42 (e) (4), (7)).

The recent decision of the Supreme Court in "Bay Ridge Operating Co. v. Aaron and Huron Stevedoring Co. v.

Blue," 334 U. S. 446, indicates that the only proper method of determining the regular rate for the purposes of computing overtime compensation due under the Fair Labor Standards Act is to divide the total compensation for the workweek, less overtime premium, by the total number of hours worked for which such compensation is paid, in order to obtain an average hourly rate, and to pay not less than 50 percent of that rate for each overtime hour worked, in addition to the straight-time compensation for all hours worked in the workweek.

The term "basic hourly rate" under the Public Contracts Act has been construed as having the same meaning as the term "regular rate" as used in the Fair Labor Standards Act. In order, therefore, to maintain a uniform administration of the two acts, the Administrator, from the date of publication of this statement in the FEDERAL REGISTER, will consider an employer as complying with the overtime pay requirements of the Public Contracts Act only if he pays overtime compensation at a rate not less than one and one-half times the basic hourly rate computed by the "averaging method" described in the next preceding paragraph.

To the extent that any statements contained in Rulings and Interpretations No. 3, in opinion letters, releases, or elsewhere, are inconsistent herewith, they are rescinded.

(Sec. 3 (a), 60 Stat. 283; 5 U. S. C. 1002)

Signed at Washington, D. C., this 13th day of October 1948.

WM. R. McCOMB,
Administrator.

[F. R. Doc. 48-9296; Filed, Oct. 21, 1948;
8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1701]

PART 245—RIGHTS-OF-WAY OVER AND UPON PUBLIC LANDS AND RESERVATIONS OF THE UNITED STATES FOR ELECTRICAL PLANTS AND TRANSMISSION LINES

STIPULATION REQUIRED PRIOR TO APPROVAL OF PERMIT

The first sentence of § 245.21 is amended and new paragraphs are added, to read as follows:

§ 245.21 *Stipulation required as a condition precedent to the approval of permit.* The applicant shall file with the application required under § 245.9, a duly executed stipulation expressly agreeing to accept the power permit subject to the following terms and conditions, excepting those which the Secretary may waive in a particular case, to wit:

(v) Upon such terms and conditions and in such manner as the Secretary may direct, to permit the Government or any agency or instrumentality thereof, hereinafter referred to as the Govern-

ment, to interconnect its transmission facilities with the transmission line of which the line for which a permit is requested forms a part; to construct, operate and maintain such line and all related facilities, wherever situated, in such manner and condition as to make available to the Government the effective use of such line for the transmission of electric power and energy in such manner and for such amounts as will not unreasonably interfere with the permittee's use of the line; and to permit the Government to so use the line in accordance with terms and conditions agreed upon by the Secretary and the permittee, including the terms upon which the Government will pay its proportionate share of the monthly cost of the lines.

(w) That the right-of-way or site shall be subject to the express condition that the exercise or use thereof will not interfere in any way with the leasing and administration by the United States of the lands affected thereby, or with the development of oil, gas, potassium, sodium or other leasable minerals therefrom; and that the permittee agrees and consents to the occupancy and use by the United States, its permittees or lessees of any part of the right-of-way not actually occupied by the project, for necessary operations incident to the development and production of oil, gas, potassium, sodium or other leasable minerals.

(x) That there is reserved rights-of-way for reservoirs, dams, and other works which may hereafter be constructed for the development of hydroelectric power or irrigation, under authority of the United States, and that the use of the right-of-way by the permittee for the purpose authorized shall be discontinued without liability or expense to the United States when found by the Secretary to be in conflict with such power or irrigation works.

(y) To make provision, or bear the reasonable cost (as may be determined by the Secretary) of making provision for avoiding inductive interference between any project transmission line or other project works constructed, operated, or maintained by it on the right-of-way authorized under the permit or easement, and any radio installation, telephone line or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof. This provision shall not relieve the permittee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

(R. S. 441, 31 Stat. 790, 36 Stat. 1253; 43 U. S. C. 959, 961, 5 U. S. C. 485)

MARION CLAWSON,
Director.

Approved: October 14, 1948.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

[F. R. Doc. 48-9293; Filed, Oct. 21, 1948;
8:46 a. m.]

No. 207—4

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

PART 24—UNIFORM SYSTEM OF ACCOUNTS FOR PERSONS FURNISHING CARS OR PRO- TECTIVE SERVICES AGAINST HEAT OR COLD

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, division 1, held at its office in Washington, D. C., on the 14th day of October A. D. 1948.

The matter of modifying the "Uniform System of Accounts for Persons Furnishing Cars or Protective Services Against Heat or Cold, Issue of 1947," being under consideration pursuant to section 20 (6) of the Interstate Commerce Act, as amended, and the modifications which are attached hereto and made a part hereof being deemed necessary for proper administration of Part I of the act (54 Stat. 917, 49 U. S. C. 20 (6)); it is ordered, that:

(1) *Objections may be filed.* Any interested party may on or before November 18, 1948, file with the Commission a written statement of reasons why the said modifications should not become effective as hereinafter ordered and may request oral argument thereon.

(2) *Effective date.* Unless otherwise ordered after consideration of such objections, the said modifications shall become effective January 1, 1949.

(3) *Notice.* A copy of this order shall be served on every person which furnishes cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company and notice of the order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

By the Commission, Division 1.

[SEAL]

W. P. BARTEL,
Secretary.

GENERAL INSTRUCTIONS

1. In § 24.01-4 *Delayed items*, change the reference to account 879, "Accrued depreciation; cars or protective service property," to read account 801-1, "Accrued depreciation; cars or protective service property."

INVESTMENT IN PROPERTY AND EQUIPMENT

SPECIAL INSTRUCTIONS

2. In paragraph (b) (1) of § 24.01-16 *Retirements and replacements*, change both references to account 879, "Accrued depreciation; cars or protective service property," to read account 801-1, "Accrued depreciation; cars or protective service property."

OPERATING EXPENSES

SPECIAL INSTRUCTIONS

3. In paragraph (a) of § 24.01-48 *Depreciation*, change the reference to ac-

count 879, "Accrued depreciation; cars or protective service property," to read 801-1, "Accrued depreciation; cars or protective service property."

BALANCE SHEET

DEBITS

4. Immediately after § 24.801 *Cars or protective service property*, insert the following additional account:

§ 24.801-1 *Accrued depreciation; cars or protective service property.* (a) This account shall be credited with amounts concurrently charged to operating expenses or other accounts for depreciation accruals relating to cars or protective service property in accordance with § 24.01-48 *Depreciation*.

(b) At the time of the retirement of each unit of depreciable property this account shall be charged with the entire service value of the unit or minor item accounted for as retired, where the group plan of accounting for depreciation is used, and with the amount included in this account with respect to the property retired where the unit plan is used.

(c) For balance sheet purposes, this account shall be treated as a single composite reserve. However, for purposes of analysis, the accounting company shall maintain subsidiary records in which this reserve is broken down into components corresponding to the primary accounts for depreciable property. These subsidiary records shall show the current debits and credits to this reserve by primary accounts.

5. In paragraph (b) (3) of § 24.803 *Acquisition adjustment*, change the references to accounts 878, "Accrued amortization of defense projects," 879, "Accrued depreciation; cars or protective service property," and 880, "Accrued depreciation; miscellaneous physical property," to read accounts 806, 801-1, and 805-1, respectively, without changing the titles of those accounts.

6. Immediately after § 24.805 *Miscellaneous physical property*, insert the two following additional accounts:

§ 24.805-1 *Accrued depreciation; miscellaneous physical property.* (a) This account shall be credited with amounts concurrently charged to income to cover the depreciation of property the cost of which is included in account 805, "Miscellaneous physical property."

(b) When any miscellaneous physical property is destroyed, sold, or otherwise retired from service, the amount included in this account with respect to the property retired shall be charged hereto.

§ 24.806 *Accrued amortization of defense projects.* This account shall be credited with amounts charged to operating expenses with respect to cars or protective service property or to income in connection with miscellaneous physical property, in all cases where the company has elected to observe amortization accounting for income tax purposes under section 124, "Amortization deduction," of the Internal Revenue Code.

BALANCE SHEET

CREDITS

7. In § 24.852 *Receivers' and trustees' securities*, add the following note to the text of the account:

NOTE: The par value of equipment securities or the principal amount of obligations incurred for the purchase of equipment under conditional or deferred payment contracts shall be included in account 853, "Equipment obligations.";

and immediately after the note insert the following additional account:

§ 24.853 *Equipment obligations*. This account shall include the par value of equipment securities and the principal amount of contractual obligations including those maturing serially or payable in installments over a period of more than one year.

The amounts included herein shall be divided as follows:

(a) Principal amount of equipment securities including those maturing serially, issued or assumed by the accounting company or by receivers and trustees.

(b) Principal sums of obligations for equipment purchased under conditional or deferred payment contracts.

NOTE: Amounts included in this account which are payable within one year from the date of the balance sheet shall be shown in a footnote thereto.

8. In § 24.878 *Accrued amortization of defense projects*, § 24.879 *Accrued depreciation; cars or protective service property*, and § 24.880 *Accrued depreciation; miscellaneous physical property*, cancel the numbers, titles, and texts of the prescribed accounts, the new and additional accounts prescribed by this order being substituted, without change in the provisions, for these canceled accounts. (54 Stat. 917; 49 U. S. C. 20 (6))

[F. R. Doc. 48-9304; Filed, Oct. 21, 1948; 8:47 a. m.]

PART 24—UNIFORM SYSTEM OF ACCOUNTS FOR PERSONS FURNISHING CARS OR PROTECTIVE SERVICES AGAINST HEAT OR COLD

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, division 1, held at its office in Washington, D. C., on the 29th day of September A. D. 1948.

The matter of modifying the "Uniform System of Accounts for Persons Furnishing Cars or Protective Services Against Heat or Cold, Issue of 1947," be-

ing under consideration pursuant to section 20 (6) of the Interstate Commerce Act, as amended, and the modifications which are attached hereto and made a part hereof being deemed necessary for proper administration of Part I of the act (54 Stat. 917, 49 U. S. C. 20 (6)); it is ordered, that:

(1) *Objections may be filed*. Any interested party may on or before November 18, 1948, file with the Commission a written statement of reasons why the said modifications should not become effective as hereinafter ordered and may request oral argument thereon.

(2) *Effective date*. Unless otherwise ordered after consideration of such objections, the said modifications should become effective January 1, 1949.

(3) *Notice*. A copy of this order shall be served on every person which furnishes cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company and notice of the order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with Director of the Division of the Federal Register.

By the Commission, Division 1.

[SEAL]

W. P. BARTEL,
Secretary.

GENERAL INSTRUCTIONS

1. In § 24.01-8 *Definitions*, cancel paragraphs (c) and (d), substituting the following for them:

(c) "Additions" are equipment, structures, or facilities added to cars or protective service property. When a unit of property is retired from service and replaced with property of like purpose, the newly acquired property shall, for the purpose of this classification, be considered as an addition and the cost thereof accounted for accordingly.

(d) "Betterments" are improvements of parts of existing facilities through the substitution of superior parts for inferior parts replaced. The cost chargeable to the accounts of this classification is the excess cost of new parts over the cost at current prices of new parts of the kind replaced.

BALANCE SHEET

DEBITS

2. After § 24.827 *Interest and dividends receivable*, insert the following additional account:

§ 24.828 *Accrued accounts receivable*. This account shall include estimates of

unaudited current items receivable which are credited to revenue, expense, or income accounts in accordance with § 24.01-3 *Unaudited items*; also estimates of other unaudited items receivable of a current nature.

Examples of items to be included:

Rents receivable under lease which are not includible in account 824, "Miscellaneous accounts receivable," or account 825, "Mileage accounts receivable."

Amounts receivable from others for use of facilities, including equipment for which bills or mileage reports have not been rendered.

Amounts receivable from others for services for which bills have not been rendered.

BALANCE SHEET

CREDITS

3. After § 24.864 *Dividends payable*, insert the following additional account:

§ 24.865 *Accrued accounts payable*. This account shall include estimates of unaudited current items payable (other than the liability for casualties) which are charged to revenue, expense, or income accounts in accordance with § 24.01-3 *Unaudited items*; also estimates of other unaudited items payable of a current nature.

Examples of items to be included:

Amounts payable to others for use of facilities, including equipment, for which bills have not been rendered.

Amounts payable to others for services for which bills have not been rendered.

NOTE: Estimates of liability for injuries to persons and loss and damage claims shall be credited to account 884, "Other unadjusted credits."

(54 Stat. 917; 49 U. S. C. 20 (6))

[F. R. Doc. 48-9305; Filed, Oct. 21, 1948; 8:47 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter A—Hunting and Possession of Wildlife

PART 8—PROCLAMATIONS DESIGNATING AREAS CLOSED TO HUNTING

OREGON

CROSS REFERENCE: For an addition to the tabulation contained in § 8.1, see Proclamation 2818 under Title 3, *supra*, designating as closed area certain lands and waters within, adjacent to, or in the vicinity of the Malheur National Wildlife Refuge, Oregon.

PROPOSED RULE MAKING

CIVIL AERONAUTICS BOARD

[14 CFR, Part 4b]

FLAP POSITION IN THE LANDING APPROACH CONDITION

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby

given that the Bureau will propose to the Board an amendment of Part 4b of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bu-

reau of Safety Regulations, Washington 25, D. C. All communications received within 30 days after the date of this publication will be considered by the Board before taking further action on the proposed rule.

The presently effective rules require that the wing flaps, in the approach position, shall be set so that the stalling speed of the airplane in this configura-

tion does not exceed 1.06 times the stalling speed of the airplane in the landing configuration. The value of 1.06 was originally established to fit conditions involving airplanes with relatively low stalling speeds. Since then it has been established that in actual operation of newer type airplanes appropriate approach flap settings result in approach stalling speeds somewhat higher than those which would be required by the ratio of 1.06. As a result, in order to utilize these higher approach speeds without a weight penalty under varying operating conditions, there have been established in some instances more than one set of flap positions corresponding with the stalling speeds in the landing and approach configurations, each set being within the limits specified by the 1.06 factor. Recent practical operational experience has indicated that the weights thus achieved are not in themselves in excess of those dictated by safety. However, such a policy, although permissible within the Civil Air Regulations, introduces more complicated operating procedures in the dispatching and piloting of the airplane. Obviously, such additional complication is undesirable.

It is therefore proposed to increase the presently effective factor of 1.06 to a value of 1.10 which would make it unnecessary to utilize the multiple set of flap positions, and thereby minimize the undesirable complications of piloting and dispatching.

It is proposed to amend § 4b.1231 (c) (2) to read as follows:

(2) Wing flaps set in position such that V_{st} does not exceed 1.10 V_{so} .

This amendment is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560)

Dated: October 19, 1948 at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 48-9327; Filed, Oct. 21, 1948; 8:51 a. m.]

[14 CFR, Parts 41, 61]

SCHEDULED AIR CARRIER PILOT PROFICIENCY CHECKS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments of Parts 41 and 61 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received within 45 days after the date of this

publication will be considered by the Board before taking further action on the proposed rules.

Under the provisions of Parts 41 and 61 of the Civil Air Regulations first pilots are required to take semiannual instrument checks in the make and model aircraft to be flown by them in scheduled service. This requirement does not recognize the difference between an instrument proficiency test and a check given to ascertain aircraft and line competency. The first check is to determine a pilot's ability to maneuver and navigate an aircraft by instruments, whereas the latter check will determine his competency on a particular make and model aircraft along a specific route.

The proposed amendments are designed to separate the two types of checks. They will permit a pilot to take an instrument check in an aircraft other than the type normally flown by him in scheduled operations; *Provided*, Such aircraft meets the prescribed requirements, and they will require a pilot to take his line and equipment check in the make and model aircraft he is to fly in scheduled service.

Provision is also made for certain training to be given in a synthetic type trainer, provided such trainer is approved by the Administrator.

It is proposed to amend Parts 41 and 61 as follows:

1. By amending §§ 41.3030 and 61.535 to read as follows:

Training and maintenance of proficiency program. A training program, acceptable to the Administrator, sufficient to insure that each flight crew member used by the air carrier is proficient in his duties and is kept currently informed of all new developments and techniques pertinent to his duties, shall be maintained by the air carrier. This training program shall include instruction in various types of emergency procedures and proper crew coordination. This instruction may be accomplished in a synthetic type trainer when the Administrator has determined that such trainer sufficiently simulates actual operating conditions for the equipment to be operated.

2. By rescinding § 61.512 and adding §§ 41.3031 and 61.511 to read as follows:

Competency checks. Each air carrier shall provide a sufficient number of check pilots to insure that each pilot utilized as first pilot is given the following proficiency checks:

(a) *Line and equipment check.* Prior to serving as first pilot over a route the pilot shall have been given a line and equipment check in the make and model aircraft to be flown by him in scheduled operations over the route to insure that he is thoroughly qualified with respect to the aircraft to be flown and the procedures and techniques to be used en route. A pilot shall not serve thereafter as first pilot unless he has been given such a check within the preceding 6 calendar months in the make and model aircraft normally flown by him in scheduled operations. The pilot need not be checked over the entire route, if his proficiency can be satisfactorily established by a check over a portion thereof.

(b) *Instrument check.* Prior to serving as first pilot over a route the pilot shall be given an instrument check to demonstrate his ability to pilot and navigate by instruments and to accomplish an instrument approach for each type of radio approach facility approved for use by the air carrier. A pilot shall not serve thereafter as first pilot unless he has been given such a check within the preceding 6 calendar months. Instrument checks shall be given in any make and model aircraft which the air carrier is authorized to use in passenger operations under instrument conditions, except that where the air carrier is not certificated for passenger operations under instrument conditions the instrument check may be given in any make and model aircraft regularly used by the air carrier and approved for this purpose by the Administrator.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560)

Dated: October 19, 1948, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 48-9325; Filed, Oct. 21, 1948; 8:51 a. m.]

[14 CFR, Parts 41, 61]

SCHEDULED AIR CARRIER CLEARANCE AND SOURCES OF WEATHER REPORTS AND FORECASTS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments of Parts 41 and 61 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received within 45 days of the date of this publication will be considered by the Board before taking further action on the proposed rule.

Section 61.71040 now requires that an air carrier clearance contain or have attached thereto all current weather reports for the airway or part thereof over which the flight is to be conducted. This requires a very large number of reports to be attached to the clearance for long distance flights. Under certain conditions, this is considered unnecessary.

On February 6, 1948, a notice of intent to amend § 61.71040 was published in the FEDERAL REGISTER the purpose of which was to obviate the necessity of attaching to the clearance those en route weather reports unnecessary for the safety of the flight. The published proposal, however, did not correct certain other sections in

the regulations, in particular, § 61.6 which among other things requires that reports to be used shall not be more than one hour and thirty minutes old at the time the aircraft departs. It therefore appears desirable to also amend § 61.6, since the requirement of one hour and 30 minutes may be unduly restrictive in good weather and too lax under marginal weather or fog conditions.

When considered together the amendments herein proposed have the effect of permitting the air carriers to use the latest available weather reports and forecasts for the route to be flown, provided such reports and forecasts are sufficient to indicate to the pilot the various types of weather to be encountered en route.

These amendments are also proposed for Part 41.

The following amendments are proposed:

1. Amend §§ 41.402 and 61.6 to read as follows:

Source of weather reports and forecasts. Weather reports and forecasts

used to control flight movements shall be prepared from observations made and released by the United States Weather Bureau, by a source approved by the Weather Bureau, or, when such observations are not available, by a source found satisfactory by the Administrator.

2. Add new §§ 41.40610 and 61.710200 to read as follows:

Clearance weather information. The clearance shall contain or have attached thereto weather reports and weather forecasts for the destination and alternates specified therein, and it shall include such additional reports and forecasts considered necessary or desirable by the pilot and dispatcher. The reports shall be sufficient to indicate to the pilot the various types of weather to be encountered en route.

3. Add a new § 61.710201 to read as follows:

§ 61.710201 *Additional clearance requirements.* The dispatcher or duly au-

thorized station personnel shall attach to or enter on the clearance all current reports or information pertaining to irregularities of navigational facilities and airport conditions which may affect the flight. He shall also inform the pilot, during flight, of any additional or different irregularities, and the flight shall be controlled accordingly.

4. Rescind §§ 61.60, 61.600, 61.601, 61.602, 61.603, 61.605, 61.7104, 61.71040, 61.71041, and 61.71042.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560.)

Dated: October 19, 1948, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 48-9326; Filed, Oct. 21, 1948; 8:51 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12144]

"Ufa"

In re: Copyright The Blue Angel, rights and interests owned by Universum-Film A. G., "Ufa", Germany, in, and other rights relating to, the motion picture film The Blue Angel.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Universum-Film A. G., "Ufa", Berlin, Germany, is a corporation organized under the laws of, and has its principal place of business in, Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows:

(a) All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof in, to, and under the registered copyright THE BLUE ANGEL (recorded in the United States Copyright Office on January 2, 1931, Copyright Record L-1855) in, to and under every claim of copyright, right to copyright, and right to renew the copyright in the work so registered, and in, to, and under the work so registered, including, but not limited to, any arrangement, adaptation, revision, dramatization, translation and version thereof;

(b) All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of Universum-Film A. G., "Ufa", Berlin, Germany, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations) who are residents of, or which are organized under the laws of, or have their principal place of business in, Germany or Japan, and are nationals of such designated enemy countries, in, to and under the following:

(1) All motion picture film in the United States of the work described in subparagraph 2 (a) of this Vesting order;

(2) Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the property described in subparagraphs 2 (a) and 2 (b) (1) of this Vesting order;

(3) All rights of renewal, reversion or reversioning, if any, in the property described in subparagraphs 2 (a), 2 (b) (1) and 2 (b) (2) of this Vesting order;

(c) All monies and amounts, and all rights to receive monies and amounts, by way of damages, royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the property described in subparagraphs 2 (a) and 2 (b) of this Vesting order;

(d) All causes of action accrued or to accrue at law or in equity with respect to the property described in subparagraphs 2 (a), 2 (b) and 2 (c) hereof, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law and by statute for the infringement of any copyright, for the violation of any right and for the breach of any obligation described in or affecting the aforesaid property;

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Germany) and is property of, or is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests therein held by, the aforesaid national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9193, as amended.

Executed at Washington, D. C., on October 5, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9310; Filed, Oct. 21, 1948; 8:48 a. m.]

[Vesting Order 12163]

MASAKASU WILLIAM HATTORI

In re: Cash owned by Masakasu William Hattori also known as William Masakasu Hattori. F-39-6267.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Masakazu William Hattori also known as William Masakazu Hattori, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash in the sum of \$926.34, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158915, "Deposits, Funds of Civilian Internees and Prisoners of War," and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Masakazu William Hattori also known as William Masakazu Hattori, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 5, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9311; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 12169]

HENRY PABST

In re: Stock owned by Henry Pabst. F-28-28502-D-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Henry Pabst, whose last known address is c/o Suddeutsches Spritzgusswerk, Villingen, Schwarzwald, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: One (1) share of \$100.00 par value

common capital stock of Mt. Vernon Die Casting Corporation, 118 Pearl Street, Mt. Vernon, New York, evidenced by a certificate numbered 122, registered in the name of Henry Pabst, together with all declared and unpaid dividends including stock dividends thereon, and any and all rights of exchange therefor on the basis of fifty shares of \$2.00 par value (new) common capital stock of the aforesaid company for each share of \$100.00 par value (old) common capital stock, together with any and all declared and unpaid dividends including any stock dividends on said new shares,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 5, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9312; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 12178]

ANNA BENEDICT

In re: Trust under the will of Anna Benedict, deceased. File No. D-28-12431; E. T. sec. 16652.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Helena Benedict Endres and Ludwig Endres, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the children, names unknown, of Helena Benedict Endres, and the children, names unknown, of Ludwig Endres, who there is reasonable cause to believe are residents of Germany, are nationals

of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the Trust created under the Will of Anna Benedict, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Max M. Spetter, Peter Hergert and Stuart C. Dubreuil, as Trustees, acting under the judicial supervision of the Surrogate's Court of New York County, New York;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof, and the children, names unknown, of Helena Benedict Endres, and the children, names unknown, of Ludwig Endres are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 11, 1943.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9313; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 12186]

LILLI HAYSSSEN, ET AL.

In re: Debts owing to Lilli Hayssen, Anna Hayssen, a widow, Anna Hayssen, a single woman, Christian Merz and Friedel Mangold. F-28-25466-A-1; E-1, F-28-26380-A-1; E-1, F-28-27374-A-1; E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lilli Hayssen, Anna Hayssen, a widow, Anna Hayssen, a single woman, Christian Merz and Friedel Mangold, each of whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation owing to Lilli Hayssen, Anna Hayssen, a

widow and Anna Hayssen, a single woman, by Pacific States Savings and Loan Company, and/or Frank C. Mortimer, Building and Loan Commissioner, 745 Market Street, San Francisco 3, California, in the amount of \$281.80, as of July 13, 1948, evidenced by an Investment Certificate numbered FP-21091 of the aforesaid company, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and any and all rights in, to and under the aforesaid investment certificate,

b. That certain debt or other obligation owing to Christian Merz, by Pacific States Savings and Loan Company, and/or Frank C. Mortimer, Building and Loan Commissioner, 745 Market Street, San Francisco 3, California, in the amount of \$452.61, as of July 13, 1948, evidenced by an Investment Certificate numbered PB-36530 of the aforesaid company, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and any and all rights in, to and under the aforesaid investment certificate, and

c. That certain debt or other obligation owing to Friedel Mangold, by Pacific States Savings and Loan Company, and/or Frank C. Mortimer, Building and Loan Commissioner, 745 Market Street, San Francisco 3, California, in the amount of \$638.55, as of July 13, 1948, evidenced by an Investment Certificate numbered PB-41913 of the aforesaid company, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and any and all rights in, to and under the aforesaid investment certificate,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 11, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9314; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 12190]

LILLI TEINTURIER

In re: Bonds owned by Lilli Teinturier. Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lilli Teinturier, whose last known address is Eisenbahnstrasse Nr. 33, Kaiserslautern, Pfalz, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation, matured or unmatured, evidenced by three (3) Panama Canal 3% Bonds of 1961, of \$1,000.00 face value each, bearing the numbers 73796, 73797 and 73798, registered in the name of Lilli Teinturier, Eisenbahnstrasse Nr. 33, Kaiserslautern, Pfalz, Germany, and any and all rights to demand, enforce and collect the aforesaid debt or other obligation, and any and all rights in, to and under, including particularly the right to any unpaid interest, on the aforesaid bonds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 11, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9315; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 12191]

FRIEDERIKE WILHELMINE WEHLE ET AL.

In re: Stock owned by Friederike Wilhelmine Wehle, also known as Friederike Wilhelmine Muller, and others. F-28-8264-D-1, F-28-29089-D-1.

Under the authority of the Trading With the Enemy Act, as amended, Exec-

utive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons whose names and last known addresses are listed below:

Friederike Wilhelmine Wehle also known as Friederike Wilhelmine Muller, c/o Theodor Wehle, Bugenhagenstrasse 6, Hamburg 1, Germany

Johanna Maria Louise Heinemann also known as Johanna Maria Louise Wehle, c/o Theodor Wehle, 6 Bugenhagenstrasse, Hamburg 1, Germany

Johanna Margaret Wehle, c/o Theodor Wehle, 6 Bugenhagenstrasse, Hamburg 1, Germany

Miss Anna Wieman, Johannisstrasse 90 A Osnabruck, Germany,

are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: Fifty seven (57) shares of no par value common capital stock of Medusa Portland Cement Company, 1000 Midland Building, Cleveland, Ohio, a corporation organized under the laws of the State of Ohio, evidenced by a Certificate numbered 379, jointly registered in the names of Friederike Wilhelmine Wehle, Nee Muller, Johanna Maria Louise Heinemann, Nee Wehle, and Johanna Margaret Wehle, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Friederike Wilhelmine Wehle, also known as Friederike Wilhelmine Muller, Johanna Maria Louise Heinemann, also known as Johanna Maria Louise Wehle, and Johanna Margaret Wehle, the aforesaid nationals of a designated enemy country (Germany);

3. That the property described as follows: Sixteen (16) shares of no par value common capital stock of Medusa Portland Cement Company, 1000 Midland Building, Cleveland, Ohio, a corporation organized under the laws of the State of Ohio, evidenced by Certificates numbered 380 and 421, for fifteen (15) shares and one (1) share respectively, registered in the name of Miss Anna Wieman, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Miss Anna Wieman, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the prop-

erty described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 11, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9316; Filed, Oct. 21, 1948;
8:49 a. m.]

[Vesting Order 500A-238]

VERLAG, VON WILHELM ERNST & SOHN;
COPYRIGHTS

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations, corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1, respectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business in, such foreign country and are nationals thereof;

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this order including said Exhibit A, who are residents of, or which are organized under the laws of or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all

other works designated by the titles therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the foregoing,

d. All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing,

e. All rights of renewal, reversion or reversioning, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing,

EXHIBIT A

Column 1 Copyright Nos.	Column 2 Titles of works	Column 3 Names and last known nationalities of authors	Column 4 Names and last known addresses of owners of copyrights	Column 5 Identified persons whose interests are being vested
Unknown.....	Mehrteilige Rahmen, Sixth Edition. Vol. 1, "Rahmen mit waagrechttem Riegel"; Vol. 2, "Hallen- und Stockwerkrahmen". 1944.	Adolf Kleinlogel. (Nationality not established.)	Verlag von Wilhelm Ernst & Sohn, Berlin, Germany. (Nationality, German.)	Owner.

[F. R. Doc. 48-9317; Filed, Oct. 21, 1948; 8:49 a. m.]

[Vesting Order 500A-239]

THEODOR PLIVIER KONSTANZ; COPYRIGHTS

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations, corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1, respectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business in, such foreign country and are nationals thereof;

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this order including said Exhibit A, who are residents of, or which are organized under the laws of or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all other works designated by the titles therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature

arising under or with respect to the foregoing.

d. All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing.

e. All rights of renewal, reversion or reversioning, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing.

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself

constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interests,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Column 1 Copyright Nos.	Column 2 Titles of works	Column 3 Names and last known nationalities of authors	Column 4 Names and last known addresses of owners of copyrights	Column 5 Identified persons whose interests are being vested
Unknown.....	Stalingrad (Roman), 1946.	Theodor Plivier, Konstanz, Germany. (Nationality, German.)	Theodor Plivier, Konstanz, Germany. (Nationality, German.)	Author and owner.

[F. R. Doc. 48-9318; Filed, Oct. 21, 1948; 8:50 a. m.]

[Vesting Order 11832, Amdt.]

BERTHA ELISABETH LUPFER

In re: Estate of Bertha Elisabeth Lupfer, deceased. File No. D-28-9093.

Vesting Order 11832, dated August 13, 1948, is hereby amended as follows and not otherwise:

By deleting "Fred Zott, Sr., 539 Hackensack St., Carlstadt, New Jersey, as Executor" wherever it appears in said Vesting Order and substituting therefor "Edward W. Freygang, as administrator of the estate of Gertrude Freygang, deceased executrix of Bertha E. Lupfer, deceased."

All other provisions of said Vesting Order Number 11832 and all action taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on October 11, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9319; Filed, Oct. 21, 1948; 8:50 a. m.]

[Return Order 195]

HELLA HILDE HEYMAN

Having considered the claim set forth below and having issued a determination

allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim Number, Notice of Intention to Return Published and Property

Hella Hilde Heyman, 69 Perry Street, New York 14, New York, Claim No. 6814, August 27, 1948 (13 F. R. 5016); \$23,913.53 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9320; Filed, Oct. 21, 1948; 8:50 a. m.]

FRIEDA HEINEN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or de-

crease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No. and Property and Location

Frieda Heinen, Chicago, Illinois, 6370; \$9,175.46 in the Treasury of the United States. Certificate of Beneficial Interest covering 4/80ths of earnings, avails and proceeds of property at 617-619 Drummond Place, Chicago, Illinois. All right, title, interest, and claim of any kind or character whatsoever of Frieda Heinen in and to the estate of Aloys Heinen, deceased.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9321; Filed, Oct. 21, 1948; 8:50 a. m.]

LE MOULIN LEGUMES, S. A.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim Nos. and Property

Le Moulin Legumes, S. A., Bagnolet (Seine) France, 9278 and 10220; Property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent Nos. 1,921,936; 2,054,038; 2,051,095; 2,070,137; 2,074,794; 2,074,795; 2,184,719; 2,222,927; and 2,271,175. All interests and rights created in Mantelet et Boucher (Societe en nom Collectif), to the extent owned by Mantelet and Boucher immediately prior to the vesting thereof by Vesting Order No. 3928 (9 F. R. 9680, August 9, 1944) by virtue of an agreement dated January 4, 1934 and March 6, 1934 (including all modifications thereof and supplements thereto) by and between Mantelet et Boucher and Foley Manufacturing Company relating, among other things, to United States Letters Patent No. 1,921,936; including royalties in the amount of \$12,659.77.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General:

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9322; Filed, Oct. 21, 1948; 8:50 a. m.]

SERVO-FREIN DEWANDRE AND PAUL FOURMARIER, JR.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, no-

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that the above application is assigned for hearing on November 8, 1948, at 10:00 a. m. (eastern standard time) in Conference Room A, Departmental Auditorium, 12th Street and Constitution Avenue, N. W., Washington, D. C., before Examiner Ralph L. Wiser.

Without limiting the scope of the issues to be considered, particular attention will be directed to the following matters:

1. Whether the proposed amendments of certificates are required, in whole or in part, by the public convenience and necessity.

2. Whether the applicant is a citizen of the United States and is fit, willing, and able to perform the proposed new transportation properly and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

Notice is further given that any person, other than the parties of record, desiring to be heard in this proceeding shall file with the Board on or before November 8, 1948, a statement setting forth the issues of fact and law raised by this proceeding which he desires to controvert.

Dated at Washington, D. C., October 18, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 48-9324; Filed, Oct. 21, 1948;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 830]

UNLOADING OF WASTE PAPER ON N. Y. DOCK RY.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 18th day of October A. D. 1948.

It appearing, that 5 cars of waste paper at Brooklyn, New York, on the New York Dock Railway, have been on hand for an unreasonable length of time and that the delay in unloading said cars is impeding their use; in the opinion of the Commission an emergency exists requiring immediate action: It is ordered, that:

(a) *Waste paper at Brooklyn, N. Y., be unloaded.* The New York Dock Railway, its agents or employees, shall unload immediately UP 187757, PRR 49827, PRR 81327, NYC 63276 and CTN 401, containing waste paper, now on hand at Brooklyn, New York loaded by the Dica Company Welders.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or collect or receive any demurrage or storage charges for the detention under load of any car specified in paragraph (a) of this order, for the detention period commencing at 7:00 a. m., October 20, 1948, and continuing until the actual

unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations, or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify the Director, Bureau of Service, Interstate Commerce Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, that this order shall become effective immediately; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 911; 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48-9301; Filed, Oct. 21, 1948;
8:47 a. m.]

[S. O. 831]

UNLOADING OF LOGS ON ALAMEDA BELT LINE

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 18th day of August A. D. 1948.

It appearing, that 2 cars of logs at San Francisco, Cal., on the Alameda Belt Line, have been on hand for an unreasonable length of time and that the delay in unloading said cars is impeding their use; in the opinion of the Commission an emergency exists requiring immediate action: It is ordered, that:

(a) *Logs at San Francisco, Cal., be unloaded.* The Alameda Belt Line, its agents or employees, shall unload immediately SP 95444 and SP 56630, containing logs, now on hand at San Francisco, Cal., consigned Berry & McCarthy.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or collect or receive any demurrage or storage charges for the detention under load of any car specified in paragraph (a) of this order, for the detention period commencing at 7:00 a. m., October 20, 1948, and continuing until the actual unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations, or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify the Director, Bureau of

Service, Interstate Commerce Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, that this order shall become effective immediately; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 911; 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48-9302; Filed, Oct. 21, 1948;
8:47 a. m.]

[S. O. 832]

UNLOADING OF COMMODITIES AT SAN FRANCISCO, CALIF.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 18th day of October A. D. 1948.

It appearing, that 5 cars of commodities at San Francisco, Cal., are on hand on the Western Pacific Railroad Company, for an unreasonable length of time and that this delay in unloading such cars impedes their use; in the opinion of the Commission an emergency exists requiring immediate action: It is ordered, that:

(a) *Commodities at San Francisco, Cal., be unloaded.* The Western Pacific Railroad Company, its agents or employees, shall unload immediately the following cars now on hand at San Francisco, Cal., consigned for export:

Car	Contents
C&NW 71388	Refrigerators.
CB&Q 35973	Do.
MoP 88140	Furniture.
CNW 49702	Do.
NYC 159957	Do.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or collect or receive any demurrage or storage charges for the detention under load of any car specified in paragraph (a) of this order, for the detention period commencing at 7:00 a. m., October 20, 1948, and continuing until the actual unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify Homer C. King, Director, Bureau of Service, Interstate Commerce

Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, that this order shall become effective immediately; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 911; 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 48-9303; Filed, Oct. 21, 1948;
8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1699]

COLUMBIA GAS SYSTEM, INC. AND HOME
GAS CO.

ORDER GRANTING APPLICATION AND PERMIT-
TING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities
and Exchange Commission, held at its

office in the city of Washington, D. C., on
the 8th day of October 1948.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary, Home Gas Company ("Home"), having filed a joint application-declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b), 9, 10 and 12 thereof, and Rule U-43 promulgated thereunder, with respect to the issue and sale by Home to Columbia of \$3,000,000 principal amount of 3¼% notes, due in equal annual installments on August 15 of each of the years 1950 to 1974, inclusive, the proceeds from such notes to be used by Home for the purpose of financing its construction program; and

The Commission by order dated July 23, 1948 having granted and permitted said joint application-declaration to become effective with respect to \$800,000 principal amount of said notes and said joint application-declaration having been continued pending until further action by the Public Service Commission of New York; and

The Public Service Commission of New York by order dated August 11, 1948 having authorized Home to issue and sell to Columbia an additional \$1,600,000 of 3¼% notes making a total of \$2,400,000 of such notes authorized by the Public Service Commission of New York; and

Columbia and Home having requested that this Commission issue its order with respect to the additional \$1,600,000 of such notes and that the proceedings be continued with respect to the balance of \$600,000 of such notes pending further action by the Public Service Commission of New York; and

Said joint application-declaration having been duly filed and notice of such filing having been duly given in the manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said joint application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said amended joint application-declaration that the requirements of the applicable provisions of the act and rules thereunder are satisfied and that no adverse findings are necessary and deeming it appropriate in the public interest and in the interests of investors and consumers that said amended joint application-declaration be granted and permitted to become effective with respect to an additional \$1,600,000 principal amount of said 3¼% notes:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid amended joint application-declaration be, and the same hereby is, granted and permitted to become effective forthwith with respect to the issue and sale by Home to Columbia of an additional \$1,600,000 principal amount of 3¼% notes and that said amended joint application-declaration be continued pending with respect to \$600,000 principal amount of such notes.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-9299; Filed, Oct. 21, 1948;
8:47 a. m.]

